

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SHENIA DANCY-STEWART as
Administratrix of the Estate of EVELINE
BARROS-CEPEDA,

Plaintiff,

v.

THOMAS TAYLOR, Jr., and the CITY
OF BOSTON,

Defendants.

CIVIL ACTION NO. 05-11803-MLW

**APPENDIX OF EXHIBITS IN SUPPORT OF PLAINTIFF'S OPPOSITION TO
DEFENDANT THOMAS TAYLOR'S MOTION FOR SUMMARY JUDGMENT**

<u>Exhibit Letter</u>	<u>Description of Exhibit</u>
Exhibit A:	Affidavit of Andrew Stockwell-Alpert
Exhibit B:	Excerpts from Deposition of Brima Wurie
Exhibit C:	Excerpts from Deposition of Debra Flaherty
Exhibit D:	Excerpts from Deposition of Robert Connolly
Exhibit E:	Excerpts from Deposition of Michael Paillant
Exhibit F:	Excerpts from Deposition of Luis Carvalho
Exhibit G:	Excerpts from Deposition of Thomas Taylor
Exhibit H:	Excerpts from Deposition of James Nicholas
Exhibit I:	Excerpts from Deposition of Travo Carter
Exhibit J:	Excerpts from Deposition of Tyrone Camper
Exhibit K:	Excerpts from Deposition of John Murphy

Exhibit L: Excerpts from Deposition of Arthur Stratford

Exhibit M: Excerpts from Deposition of Jennifer K. Lipman, M.D.

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EXHIBIT A

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SHENIA DANCY-STEWART as
Administratrix of the Estate of EVELINE
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Plaintiff,

v.

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CIVIL ACTION NO. 05-11803-MLW

AFFIDAVIT OF ATTORNEY ANDREW STOCKWELL-ALPERT

I, Andrew Stockwell-Alpert, hereby state and depose as follows:

1. I am counsel of record for the Plaintiff in the above-captioned matter, and make this affidavit on personal knowledge in support of the Plaintiff's Opposition to Defendant Thomas Taylor's Motion for Summary Judgment.

2. I hereby certify that the exhibits attached to Plaintiff's Response to Defendants' Local Rule 56.1 Statement of Facts and Plaintiff's Statement of Additional Undisputed Material Facts are true and accurate copies.

Signed under the pains and penalties of perjury this 7th day of July 2008.

/s/ Andrew Stockwell-Alpert

Andrew Stockwell-Alpert

Respectfully submitted,
PLAINTIFF, SHENIA DANCY-STEWART as
Administratrix of the Estate of EVELINE
BARROS-CEPEDA,

By her attorney:

/s/ Andrew Stockwell-Alpert

Andrew Stockwell-Alpert, BBO#481190
11 Beacon Street, Suite 1210
Boston, MA 02108
(617) 720-4244

CERTIFICATE OF SERVICE

I, Andrew Stockwell-Alpert, hereby certify that on this date I served a copy of the foregoing documents upon defendant's lead counsel, Helen G. Litsas, by electronic filing and by postage prepaid, first class, United States mail.

7/7/08

/s/ Andrew Stockwell-Alpert

Date

Andrew Stockwell-Alpert

EXHIBIT B

00016

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UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

4

C.A. NO. 05-11803-MLW

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* * * * *

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SHENIA DANCY-STEWART, as
Administratrix of the Estate

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of EVELINE BARROS-CEPEDA,
Plaintiffs,

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vs.

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THOMAS TAYLOR, JR., and the
CITY OF BOSTON,

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Defendants.

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DEPOSITION OF BRIMA WURIE, taken
on behalf of the Defendants, pursuant to the
Massachusetts Rules of Civil Procedure,
before Karen Borreson, RPR, Notary Public
within and for the Commonwealth of
Massachusetts, at the Nashua Street Jail, 200
Nashua Street, Boston, Massachusetts, on
Friday, January 25, 2008, commencing at 11:45
a.m.

00103

1 A. I don't remember. All I remember is from
2 the cookout to Hancock?

3 Q. Did whatever plan that you had that night
4 involve smoking weed?

5 A. No, I didn't smoke weed. I can't smoke
6 weed. So I don't remember. I wasn't
7 smoking.

8 Q. Do you remember if anybody else was planning
9 to smoke weed that night?

10 A. No. Not that I can recall, because I wasn't
11 smoking. I couldn't, so...

12 Q. Do you know of anybody that night had weed
13 on them when they were in the car?

14 A. No.

15 Q. Do you remember going over in the area of
16 Cushing Avenue after you left Hancock?

17 A. No.

18 Q. Do you remember the next time you went
19 anywhere after you left Hancock Street?

20 A. That's what I mean. Like, I don't want to
21 get into details but -- because I would
22 rather my lawyer be here.

23 Q. Do you remember pulling over on Cushing
24 Avenue?

00104

1 A. No.

2 Q. Do you remember Carlos Fernandez ever
3 getting out of the Ford Taurus in that area
4 of Cushing Avenue or Jerome Avenue?

5 A. That's what I mean, I don't want to get into
6 details because my lawyer is not here.

7 Q. Is it Cushing Avenue or Cushing Street?

8 A. I don't know. I'm not familiar around there
9 as far as streets goes.

10 Q. Is it Jerome Avenue or Jerome Street?

11 A. I don't know where Jerome is.

12 Q. Do you know the streets Jerome or Cushing
13 Avenue?

14 A. Uh-uh.

15 Q. Are you familiar with that area on that side
16 of Columbia Road?

17 A. I'm -- I'm -- I used to the area up by where
18 I live. Where me and my mother stay, where
19 my family lives, as far as streets and
20 details.

21 Q. Do you remember pulling over the vehicle
22 after you left Hancock?

23 A. Pulling over?

24 Q. Pulling over or stopping the vehicle?

00109

1 A. It could have been.

2 Q. Where were you when you saw the lights? You
3 saw the police lights?

4 A. Yes.

5 Q. And by that do you mean the red and blue
6 wigwags?

7 A. Activation.

8 Q. Did you hear any sirens?

9 A. No.

10 Q. Did you hear anything?

11 A. I never heard sirens, no. Not that I
12 recall, no. It was just flashing lights
13 there. I never heard no -- noise, not that
14 I recall.

15 Q. Did you understand that they were trying to
16 pull you over?

17 A. I mean, yes. I know common-sense-wise. But
18 they really didn't use no speaker and say,
19 Pull over. And I didn't hear no sirens.
20 But they are following, yes.

21 Q. Do you know why they were following you?

22 A. No.

23 Q. Do you know why they were trying to pull you
24 over?

00110

1 A. No.

2 Q. Do you remember pulling through a red light
3 on Columbia Road?

4 A. There was a red light. And when I came to
5 Columbia Road, like, it was red with a left
6 signal. Like, that's what I remember.
7 Like, you could turn left. If I could
8 recall, like, the light -- like, I can't
9 remember. But I know the lights was a sign
10 for me that I could go. Because I know I
11 could take a left onto Columbia Road when
12 the lights -- the traffic signs was saying
13 that I could go through the lights. It
14 wasn't a red light.

15 Q. So were you already on Columbia Road or were
16 you turning onto Columbia Road?

17 A. I was turning onto Columbia Road.

18 Q. Do you remember what street you were turning
19 from?

20 A. Hancock.

21 Q. Oh, that was Hancock?

22 A. Yes. Hancock comes into Columbia Road.

23 Q. If you're coming out of Hancock, are you
24 taking a left or a right on Columbia Road?

00111

1 A. A left.

2 Q. Columbia Road, actually it's a major street?

3 A. Uh-huh.

4 Q. It's two ways. And I think there is at
5 least one -- I think there are more than one
6 lane going each way, does that sound right?

7 A. Uh-huh.

8 Q. Do you have to cross lanes to get to the
9 lane that you pulled into on Columbia Road?

10 A. Yes.

11 Q. Does that make sense?

12 A. It's an intersection. Like, cars will go
13 this way and cars will go that way. Like,
14 cars will go to the right and cars will go
15 to the left.

16 Q. Did you pull --

17 A. I pulled into the intersection and took a
18 left onto Columbia Road.

19 Q. Did you cross the lanes that were going the
20 other way? You know what I mean? Could you
21 have taken a right onto Columbia Road there?

22 A. Yes. You can take a right or a left.

23 Q. Did you have to cross those lanes that you
24 would have taken a right in to get to the

00124

1 know if there was a car there. It's -- it's
2 -- it's a while ago. I don't know if there
3 was -- I think there was a car on Dunkeld.

4 Q. What kind of car, a police car?

5 A. No. I'm not sure. About -- I don't think
6 it went out of the way. But then I remember
7 the police coming in the middle of the
8 street like, Hey, waving his hand.

9 Then -- like, I can't recall if the
10 car was -- I don't know if there was a car
11 in the middle of the street or not, but I --
12 to my recollection, I think there was a car
13 in the middle of the street that vanished,
14 that ended up driving away once they seen the
15 car coming up with the flashing lights
16 behind it. I think that car disappeared
17 somewhere.

18 And then there was the police that
19 came in the street and waving his right hand
20 and pointing a gun at me. That's what I
21 remember. And talking about stop. I slowed
22 up to, like, a stop and he went to the right
23 of the car. He moved to the right of the
24 car.

00125

1 And all I remember is his gun keep
2 following me and then he slapped the hood
3 like, stop, and I kept going.

4 Q. So how did you get onto Dunkeld?

5 A. I came off Howard and took a left on Quincy
6 and took a right on Dunkeld. And I don't
7 know. Like, it's so fast-paced, but I'm not
8 sure if -- at first I slowed up because --
9 yes, there was a car in front of me. Yes.
10 There was a car in front of me, because I
11 slowed up.

12 Q. What street were you coming from when you
13 turned onto Dunkeld?

14 A. Howard -- I mean Quincy. I came off Howard
15 Avenue took a left on Quincy and took a
16 right on Dunkeld. And there was a car and
17 -- because I'm like, Oh. Well, in my mind,
18 I was like, I got to stop now. That's what
19 happened, a car was there. But it ended up
20 going because, I guess, the flashing lights
21 made it move.

22 Q. Where was the police cruiser at this point
23 when you turned on --

24 A. I never seen the police cruiser. The police

00133

1 A. Ever since he got my attention.

2 Q. And when you first saw that officer, what
3 were you thinking?

4 A. Stop. And then he moved out of my way, so I
5 kept on going.

6 Q. When you saw that officer, were you still
7 thinking about what was going to happen if
8 you got pulled over?

9 A. I was just like, I'm going to jail. I said
10 that in my head, I'm going to jail. But he
11 was pointing his gun at me. So when he
12 cleared the way, I kept going.

13 Q. What did you do when you saw him point the
14 gun?

15 A. Got nervous. I thought he was going to
16 shoot me. But I was -- I was like -- it was
17 like -- not a bluff thing, but he was moving
18 out of the way pointing his gun. It was all
19 in motion. Like, the car left, I was still
20 going.

21 And if I'm driving, I'm going over
22 to my left, but not hitting the cars that's
23 parked and he's moving out of the way to his
24 right, but still pointing his gun, like

00134

1 following me. Like, he's aiming it at the
2 driver, me, and kept on, like, following.

3 So when he moved over to the right
4 of the car, like, he -- all I remember is
5 him slapping the hood with his hand like,
6 stop the car. And I kept on going.

7 Q. Did you stop the car on Dunkeld Street?

8 A. No. They did. But it kept on rolling. And
9 what I mean by that is because they shot the
10 car up so bad, that the car shut off on its
11 own.

12 Q. Do you know what the other people in the car
13 were doing while you were on Dunkeld Street?

14 A. No.

15 Q. Was anybody saying anything?

16 A. It was all a shocking thing. I don't
17 remember, no.

18 Q. I mean, you had somebody in the passenger
19 seat with you?

20 A. They were just -- weren't saying nothing.
21 They were just like -- they were shocked.
22 Like, nobody was saying nothing.

23 Q. Did Carlos Fernandez say anything while you
24 were on Dunkeld Street?

00136

1 A. I wasn't paying attention to it because -- I
2 mean, if I was him, I probably would have.
3 But my focus was on the police officer. It
4 really wasn't like I was looking to see what
5 everybody else in the car was doing, because
6 I was too busy watching the police officer.

7 Q. Did you hit the breaks at all?

8 A. Yes. I was -- I told you, I was going like
9 two, three. I was -- I was going real slow
10 at that time, like not even five miles an
11 hour. The car was, like, basically rolling
12 up the hill. And he was telling me to stop.
13 But he seen the motion of the car, so he
14 moved to the right of the car but his gun
15 was still on me.

16 Q. So you were going how fast?

17 A. Very slow. The whole time it was slow. But
18 when I got on Dunkeld, it was very slow.
19 Basically rolling up the hill.

20 Q. Less than five miles an hour?

21 A. Yes.

22 Q. Less than four miles an hour?

23 A. Between that. It was really -- it was
24 really slow, like, mostly. All I remember

00137

1 is going up. Because I didn't want to hit
2 the cop, so I was going really slow. So
3 when he got out of the way, he was still --
4 he seen the car still rolling in motion.
5 But he kept his gun fixed on me, so he moved
6 out of the way.

7 Q. Were you pressing the gas?

8 A. I was more on the brake.

9 Q. You remember pressing the brake?

10 A. Yes. Like -- you know if you're in a car
11 and you take your foot off the brake, you
12 just keep rolling, that's what I was doing.
13 But once he got out of the way, that's when
14 I pressed on the gas.

15 Q. Were you able to see the officer, that
16 officer, the entire time you were driving on
17 Dunkeld Street?

18 A. Yes.

19 Q. Did you hit the officer?

20 A. No.

21 Q. How do you know you didn't hit the officer?

22 A. Because he had his gun fixed on me. And the
23 reason I could say that is because when I
24 drove by him, I seen his body in the

00139

1 with his free hand, which would be his left.

2 Q. When did you lose sight of that officer?

3 A. After he slapped the hood of the car and

4 then he had his gun still pointing at me --

5 like, I was looking over to the right, that

6 was it. And then -- like, then I made it to

7 Fayston and took a right.

8 Q. And he was on the passenger side?

9 A. Yes.

10 Q. When he was in the street signaling you to

11 stop, where is he on the street? Is he in

12 the middle, to the side?

13 A. Like, before the car got close to him, he

14 was, like, in the -- like, not in a frenzy,

15 but, like, urging you to stop. Like, his

16 body was moving like, Stop the car, Stop the

17 car, yelling with his gun pointing at me,

18 but he was moving over to the right.

19 Because I guess he seen I was, like,

20 trying to go to the left. Because I could

21 see he was moving like, Stop the car. And

22 he was moving towards the right as the car

23 was coming. Like, he was steady moving,

24 like slowly moving off to -- off to my right

00144

1 Quincy and there is an intersection of
2 Dunkeld and Fayston. Where are you when --
3 A. More of the middle right before probably --
4 because there is brick houses on your left,
5 the apartment buildings. I'm in the middle,
6 because the cruiser is on me. It's not like
7 the cruiser is stuck on the street. The
8 cruiser was behind me. So I was in the
9 middle closer towards the top towards
10 Fayston.

11 Q. Where are you when you lose sight of the
12 police officer?

13 A. I lost sight -- the police -- I never lost
14 sight of it. To the right -- like, if
15 you're driving by and you see a person
16 standing on the side of your car, he's -- I
17 was still looking at him because he had a
18 gun in his hand. You know what I'm saying?
19 I'm thinking he's going to shoot.

20 Q. When the police officer is to the right of
21 your car, the passenger side --

22 A. Yes.

23 Q. -- and you're going by him --

24 A. As soon as -- as soon as -- I lose sight of

00145

1 him as soon as like -- like, the passenger,
2 but the rearview. He was still there.
3 Like, he was standing. Like, if you mean
4 lose sight of him, I never lost, like,
5 complete sight of him, because he was
6 running towards the car.

7 Q. Let me ask it this way. At the point where
8 the police officer is to the right of your
9 car on the passenger side of your car --

10 A. Yes.

11 Q. -- where is your car on Dunkeld when that's
12 happening? Is it, I guess using these
13 landmarks, the intersection of Dunkeld and
14 Fayston?

15 A. The intersection of Fayston and Quincy
16 Street, I'm in the middle of -- like, if
17 you're -- if the length is -- if the length
18 is 10 yards -- all right. Say it's a
19 football field, I'm on the 50 yard line.
20 I'm in the middle.

21 Basically what I'm trying to say is
22 of that intersection between Dunkeld and
23 Quincy Street -- I mean, Fayston and Quincy
24 Street, I'm in the middle, but still rolling

00146

1 towards the top. And that's when that's
2 happening.

3 Like, I'm not even near Fayston yet.
4 And when I'm -- when he moves off to the
5 right and pointing the gun, like, I still
6 had to drive up some and then take a right
7 once he's behind me. And he's, like,
8 running towards the car.

9 So when I get on Fayston, I'm going
10 forward and all I hear is shots and that's
11 when I, like, kind of ducked.

12 Q. Why didn't you stop on Dunkeld?

13 A. I don't know. Because in -- in my mind, I
14 just wanted to get away from that cruiser
15 just enough to -- I don't know.

16 Q. When did you start to accelerate?

17 A. I accelerated as soon as -- after -- after I
18 heard the cop say, Stop, and I knew that he
19 was out of sight not to be hit, that's when
20 I kept going. That's when I went. And then
21 he was like, Stop the car. And I, like,
22 looked in the rearview and he was, like,
23 turning towards the car.

24 And I went on Fayston. And I don't

00199

1 car never moved, I would have stopped.

2 Q. Were you able to pull around that car if you
3 wanted to?

4 A. No. The car -- no, you wouldn't be able to
5 move it.

6 Q. Is there anything else that made you believe
7 that the officer was trying to shoot you?

8 A. Yes. Because my window shot out. Like, it
9 was -- like, when I was driving, the
10 driver's side window was shot out. The
11 bullets felt -- it felt like they were
12 aiming right at me, my head.

13 Q. What made you feel like that?

14 A. Because...

15 Q. I mean, was there anything you saw that made
16 you feel like that?

17 A. What you do mean? The cop was pointing the
18 gun at my face. I mean, yes. I mean, I
19 thought he was going to shoot me right then
20 and there. And when he didn't, I was
21 like -- I mean, I was allowed to go by. And
22 the next thing you know, I'm hearing shots.
23 That's a really scary feeling hearing
24 bullets go by your ear, windows being shot

00230

1 A. I mean, as far as like -- yes, but not from
2 -- I want to say from -- yes, I -- yes, I
3 did.

4 Q. What types of injuries did you suffer?

5 A. I mean, once the ordeal was over from the
6 glass, me running. Like I told, you glass
7 was all over me, shattered all over me when
8 they shot the car up.

9 Q. Were you cut?

10 A. Yes.

11 Q. Do you know if anyone else was injured?

12 A. I mean, all I heard of was what the police
13 ever told me -- all I remember was they told
14 me that Lenny was in the hospital, but I
15 don't know from what injuries.

16 Q. Did you ever hear Eveline Baros-Cepeda say
17 anything while she was in the car?

18 A. No.

19 Q. Did you ever hear her say anything to
20 indicate that she had been shot?

21 A. No.

22 Q. Did you ever hear anyone else in the car say
23 anything to indicate that she had been shot?

24 A. No. Like I said, I didn't know until the

EXHIBIT C

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Civil Action No. 05-11803-MLW

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as Administratrix of the Estate of
EVELINE BARROS-CEPEDA
Plaintiff
vs.

THOMAS TAYLOR, JR. AND THE
CITY OF BOSTON
Defendants

C O N F I D E N T I A L

DEPOSITION OF **DEBRA A. FLAHERTY**, taken on
behalf of the plaintiff, pursuant to the
applicable provisions of the Federal Rules of
Civil Procedure, before Irma Widomski, a
Registered Merit Reporter, and Certified
Shorthand Reporter, No. 131593 in and for the
Commonwealth of Massachusetts, at the Law
Offices of Andrew Stockwell-Alpert, 11 Beacon
Street, Suite 1210, Boston, Massachusetts, on
Monday, February 11, 2008, commencing at 1:00
p.m.

WIDOMSKI COURT REPORTING ASSOCIATES
ONE SUNSET DRIVE
WAKEFIELD, MASSACHUSETTS 01880
(781) 246-0710

1 A. Twice a year.

2 Q. Did you, on your own, return to Moon Island over
3 and beyond the two times a year that you were
4 required to do so?

5 A. No.

6 Q. Approximately how many targets would you shoot
7 at Moon Island when you would go there?

8 A. How many targets?

9 Q. Yes.

10 A. You had one target that you were shooting at.

11 Q. How many bullets were you allowed to discharge
12 at the target?

13 A. In excess of 100 rounds.

14 Q. And what would it mean if you were recertified
15 in connection with your shooting at Moon Island?

16 A. What do you mean?

17 MS. LITSAS: Objection.

18 Q. How do you get recertified at Moon Island?

19 A. You have to pass.

20 Q. What does it take to pass, so to speak?

21 A. You have to hit the target.

22 Q. How many times?

23 A. Well, there's a certain amount. I don't know
24 how many they require but I always passed so I

1 wasn't sure what the passing grade was. I think
2 you had to get over 70 to be recertified.

3 Q. You could shoot as many as a thousand bullets to
4 attain that score?

5 A. I didn't say a thousand, I said a hundred.

6 Q. And during the course of your being a police
7 officer, did you ever receive any actual
8 inservice training in shooting at moving
9 vehicles?

10 A. No.

11 Q. Did you receive any further training in shooting
12 at moving targets?

13 A. No. Not that I recall. I think they were in
14 the process of doing the range over to that
15 capacity but I don't think it was ever
16 completed.

17 Q. Did you receive any training in the policy or
18 procedures of the Boston police department with
19 regard to the use of deadly force?

20 A. Yes, we did.

21 Q. And particularly with respect to that, did you
22 ever receive any training with regard to the
23 circumstances under which you would be permitted
24 to shoot at a moving or fleeing vehicle?

1 Q. Who was operating the cruiser?

2 A. I was.

3 Q. And where was Officer Connolly sitting?

4 A. Beside me in the passenger seat.

5 Q. And did you or he say anything to each other at
6 the point that you made that observation of the
7 white Taurus?

8 A. I believe I said something to Officer Connolly.

9 Q. What did you say?

10 A. That he had just gone through the red light, and
11 I was going to pull him over, attempt to pull
12 him over.

13 Q. In connection with that, did you activate your
14 red light, your overhead light?

15 A. I did.

16 Q. And you proceeded to follow him?

17 A. I followed him.

18 Q. Now, when you followed him at the moment that he
19 went through the red light and you started to
20 follow him, were you able to make any
21 observations as to how many individuals were in
22 the vehicle?

23 A. I knew there were at least three or four people,
24 maybe more in the vehicle.

1 A. I don't know how fast he was going. I don't
2 believe he was going faster than 25 but...

3 Q. Would it be fair to say he wasn't exceeding the
4 speed limit for the area he was in?

5 MS. LITSAS: Objection.

6 A. Yes.

7 Q. I think we have him now on Virginia Street, how
8 far behind him were you following?

9 A. I was right behind him. Maybe 10, 15 feet
10 approximately. I'm really not sure.

11 Q. Well, approximately if you can estimate, how
12 many cars could fit in between you and him as
13 you were following him?

14 A. Probably a car, maybe a car, I'm not sure.

15 MS. LITSAS: Objection.

16 Q. And you continued to follow him with your lights
17 on?

18 A. Sporadically putting them off and on.

19 Q. He didn't stop?

20 A. No.

21 Q. What did he do next?

22 A. He proceeded down Virginia Street towards
23 Dudley, at which time I notified operations that
24 we were -- he's refusing to stop. He's heading

1 like he was stopping at Magnolia Street and to
2 pass the car?

3 MS. LITSAS: Objection.

4 A. Approximately four blocks, five blocks.

5 Q. Then what happened?

6 A. He proceeded down Magnolia Street. I continued
7 to notify operations of our location when he
8 took a right onto Wayland Street.

9 Q. Okay, then what?

10 A. He still refused to stop. I still continued to
11 notify operations that he was refusing --

12 Q. Approximately how much time --

13 MS. LITSAS: Objection. Can you let
14 her finish the answer, Andrew?

15 Q. Approximately how much time had gone by from the
16 time you first began to follow him to this point
17 now where you're on Wayland Street and he still
18 hasn't stopped?

19 MS. LITSAS: Objection.

20 A. I don't know how much time. Not a long time.
21 Probably minutes, but it seemed like forever.

22 Q. Then what happened?

23 A. I continued down Wayland Street. I believe we
24 got to Howard Ave., he took a left towards

1 struck, did you make any observations with
2 respect to whether or not he withdrew his weapon
3 from his holster?

4 A. No, I did not make any observations.

5 Q. Did you have a clear view of Officer Paillant as
6 he was coming across Fayston Street?

7 MS. LITSAS: Objection.

8 A. I don't know what you mean by a clear view. I
9 saw somebody crossing the street.

10 Q. If in fact Officer Paillant had removed his
11 weapon, okay, and held it, would you have been
12 able to see it from that point from your vantage
13 point?

14 MS. LITSAS: Objection.

15 A. I might have, I don't know.

16 Q. But you don't know whether he withdrew his
17 weapon or not?

18 A. I don't.

19 Q. And do you know -- you say you saw him making
20 hand gestures, that was the first indication you
21 had of him after you may have lost sight of him?

22 MS. LITSAS: Objection.

23 A. After he got struck --

24 Q. Right.

1 A. -- I stopped the cruiser because simultaneously
2 there were gunshots fired. I stopped to see how
3 Paillant was to make sure he was all right. He
4 made motioning gesture with his hand.

5 Q. And please describe the motions Officer Paillant
6 made when you stopped to see whether or not he
7 was okay?

8 A. He was like beckoning me to go after the car.
9 That was what I thought he was saying.

10 Q. Well, as you saw his hands doing that, okay, at
11 that point where you observed his hands doing
12 that, where, if you recall, was the white
13 Taurus?

14 A. The white Taurus was proceeding down Fayston
15 Street.

16 Q. And approximately how far away from your vehicle
17 and Officer Paillant was the white Taurus at the
18 point you saw him making the gestures with his
19 hands?

20 MS. LITSAS: Objection.

21 A. I don't know how far away.

22 Q. Well, did you see it in front of you?

23 A. I could see it on Fayston Street. How many feet
24 it was or inches, I don't know.

1 Q. At the point where officer --

2 MS. LITSAS: I haven't finished
3 talking, as the same objection as to Exhibit D
4 as to the other ones, Exhibits A through D.

5 Q. Now, on this diagram, please place a little
6 circle and a P at the point where you saw
7 Officer Paillant struck, where Officer Paillant
8 was where you saw him struck?

9 MS. LITSAS: Objection.

10 Q. And please draw a box in the position that you
11 recollect it in for the white Taurus and label
12 that V-1 at the point that that white Taurus
13 struck Officer Paillant, the exact position of
14 the vehicle with respect to the streets?

15 MS. LITSAS: Objection.

16 A. What number is the suspect vehicle here, V-1?

17 Q. Make it V-2 now.

18 A. V-2, and the circle is Paillant?

19 Q. Right.

20 A. Right there. That's a P, right?

21 Q. Yes. Put your vehicle also in the right
22 location with respect to -- and put the F in
23 there for consistency.

24 Now, did you, is that the point --

1 strike that. When in relation to the time that
2 Officer Paillant was struck did you hear shots
3 fired?

4 MS. LITSAS: Objection.

5 A. Immediately. It was like he got hit and bang,
6 bang, bang, bang.

7 Q. Please place an S on the diagram in the area
8 that corresponds to the rough location for which
9 you believe you heard the shots fired?

10 MS. LITSAS: Objection.

11 A. I couldn't tell you what area. All I heard was
12 shots.

13 Q. With respect to you're saying they were either
14 behind you or to the left?

15 MS. LITSAS: Objection.

16 A. Put an S?

17 Q. Well, may I see that?

18 MR. STOCKWELL-ALPERT: Please label
19 this E.

20 (Exhibit E marked for identification.)

21 MS. LITSAS: Again, I'll renew my
22 objection.

23 Q. Now, please, with respect to Exhibit E, please
24 put a little box and an F where your vehicle was

1 MS. LITSAS: Objection.

2 A. One right after the other. Bang, bang, bang,
3 bang. How much time is that? I don't know.

4 Q. It's your testimony each shot was fired
5 immediately after the one before it?

6 A. Yes. It was a series of gunshots and I notified
7 operations that we now had shots fired because
8 it was bang, bang, bang, bang.

9 Q. And then now shots were fired came after you had
10 rounded the corner onto Fayston Street and saw
11 Officer Paillant down, correct?

12 MS. LITSAS: Objection.

13 A. Yes.

14 (Question read back as requested.)

15 Q. Did you at any time make effort to determine
16 from what direction the shots were coming?

17 A. At that time, no, I didn't.

18 Q. Did you have any concern about being in the line
19 of fire of the shots?

20 A. At that time, no, I didn't.

21 Q. At any time, did you have any concern that you
22 were in the line of fire of the shots?

23 A. After the fact.

24 Q. What does that mean?

1 A. After this all happened, I thought that if I
2 hadn't stopped to see how Officer Paillant was,
3 I would have been hit if I had continued after
4 the car rather than stop to see how the officer
5 was.

6 MS. LITSAS: Objection.

7 MR. STOCKWELL-ALPERT: You objected to
8 her answer?

9 MS. LITSAS: I was objecting to your
10 question.

11 MR. STOCKWELL-ALPERT: Can you read
12 back the answer?

13 (AnsWER read back as requested.)

14 Q. Do I understand you to be saying that if you had
15 continued traveling down Fayston Street instead
16 of stopping for that period of time, that you
17 think that you might have been in the line of
18 fire in the bullets?

19 MS. LITSAS: Objection.

20 A. Say that again, please.

21 Q. Do I understand you to be saying, is my
22 understanding correct that looking back, you
23 think if you hadn't stopped but continued
24 traveling down Fayston Street at the time, that

1 you might have been in the line of fire of the
2 bullets?

3 MS. LITSAS: Objection.

4 A. Officer Paillant got hit. The shots were fired
5 as soon as he got hit. And if I was still in
6 motion, I thought that I probably would have got
7 hit if I hadn't stopped.

8 He got hit; the shots were fired; my
9 cruiser was stopped, and I thought if I had
10 still been moving, I could have been hit.

11 Q. How far behind the Taurus were you when you
12 heard the bullets?

13 MS. LITSAS: Objection.

14 A. I wasn't, I don't believe I was behind the
15 Taurus when I heard the bullets.

16 Q. When you heard the first bullet fired, how far
17 behind the Taurus were you?

18 MS. LITSAS: Objection.

19 A. I really don't know. I was at where Officer
20 Paillant was on the ground.

21 Q. How long --

22 (Exhibit F marked for identification.)

23 (Question read back as requested.)

24 MS. LITSAS: So there's still a

1 from what you observed that Officer Paillant's
2 life was threatened?

3 MS. LITSAS: Objection.

4 A. I'm sorry, say that question again.

5 Q. Was there anything about the way the vehicle
6 struck Officer Paillant or any of the
7 observations that you made that caused you to
8 think that Officer Paillant's life was in
9 danger?

10 MS. LITSAS: Objection.

11 A. Sure, the guy drove right at him.

12 Q. After the guy hit him and he fell down, okay,
13 was there anything further about the situation
14 that caused you to think that Officer Paillant's
15 life may be in danger?

16 A. Shots were being fired. I had no idea who was
17 firing them.

18 Q. So was it the shots that caused you to be
19 concerned for his life or was it the actions of
20 the motor vehicle?

21 MS. LITSAS: Objection.

22 A. What's the question? Was I more concerned his
23 life was in danger from the car or the guns or
24 the fires, the gunshots?

EXHIBIT D

Volume: 1
Pages: 1 to 97
Exhibits: None

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

C.A. No. 05-11803-MLW

SHENIA DANCY-STEWART as Administratrix
of the Estate of EVELINE BARROS-CEPEDA,
Plaintiff

vs.

THOMAS TAYLOR, JR., AND THE CITY OF
BOSTON,
Defendants

C O N F I D E N T I A L

DEPOSITION of ROBERT CONNOLLY,
a witness called on behalf of the
Plaintiff, pursuant to the applicable
provisions of the Federal Rules of Civil
Procedure, before Judith R. Sidel,
Professional Court Reporter and Notary
Public, in and for the Commonwealth of
Massachusetts, at the Office of Andrew
Stockwell-Alpert, 11 Beacon Street, Suite
220, Boston, Massachusetts 02108, on
Friday, February 1, 2008, commencing at
1:55 p.m.

* * * * *
WIDOMSKI REPORTING SERVICE
One Sunset Drive
Wakefield, Massachusetts 01880
(781) 246-0710

1 MS. LITSAS: Objection. I will
2 instruct him not to answer, because it
3 goes into attorney/client communication.

4 MR. STOCKWELL-ALPERT: That's
5 what I thought. Thank you.

6 Q. Without discussing whether anybody told
7 you to -- strike that. Without making
8 any reference to what any lawyer from the
9 City of Boston may have discussed with
10 you, is there any other reason, separate
11 and apart from any conversations you may
12 have had with the City of Boston, that
13 you reviewed Rule 303?

14 MS. LITSAS: Objection.

15 A. No.

16 Q. Please tell me what is your present
17 understanding with regard to when it's
18 appropriate to discharge a firearm at a
19 moving vehicle?

20 MS. LITSAS: Objection.

21 A. There isn't.

22 Q. Do I understand you to say it's never
23 appropriate to shoot at a moving vehicle?

24 MS. LITSAS: Objection.

1 A. It's not.

2 MR. STOCKWELL-ALPERT: Off the
3 record.

4 - (Back on the record.)

5 Q. Officer, it's possible that I'm not
6 picking up a queue properly here, and I
7 don't really want to get myself jammed
8 up here, okay, in the future. I would
9 point out to you that what I believe that
10 I'm seeing is that you're periodically
11 looking over at counsel when I ask you
12 a question, and I would like to just
13 reinstruct you that if counsel objects,
14 you're still obligated to answer the
15 question.

16 A. I am.

17 Q. And if, in fact, you are looking
18 over at her, okay, I don't want to be
19 focusing on that. I want you to hear
20 the question, and I want you to answer
21 the question. And if there is an
22 objection, please go ahead and just
23 answer the question. Can you do that?

24 A. I can do that.

1 anything that counsel was doing anything
2 with respect to anything that the officer
3 was doing.

4 Q. Just so my understanding is correct here,
5 did you indicate that presently your
6 understanding is there is no circumstance
7 that warrants discharging your firearm at
8 a moving vehicle?

9 MS. LITSAS: Objection.

10 A. Correct.

11 Q. Now, to your understanding, was there a
12 different policy or rule with expect to
13 when you could discharge a firearm at
14 a moving vehicle at the time of the
15 incident that we're here in this office
16 here today?

17 MS. LITSAS: Objection.

18 A. There was.

19 Q. And do you have an understanding as to
20 how the rule -- your own understanding
21 as to how the rule changed after this
22 incident between -- before the incident
23 of today?

24 MS. LITSAS: Objection.

1 A. Do I have an understanding on why it
2 changed?

3 Q. No, on how it changed, the way in which
4 it changed.

5 A. Regarding the Rule 303?

6 Q. Yes.

7 A. Before you could. Now you can't.

8 Q. And before when you could, do you have an
9 understanding of what the circumstances
10 were that permitted the discharge of a
11 firearm at a moving vehicle?

12 MS. LITSAS: Objection.

13 A. If I can remember it correctly, it is
14 when yourself, or somebody else is going
15 to be coming in contact with the moving
16 vehicle.

17 Q. Now, was it your understanding that
18 there are limitations imposed on
19 that particular provision?

20 A. There were.

21 Q. And what were the limitations, to your
22 understanding?

23 A. I believe if there was a crowd, if people
24 were nearby, ricocheting bullets -- done.

1 violation?

2 A. Civil.

3 Q. And what was your purpose in following
4 the vehicle after it went through the red
5 light?

6 A. To stop it, and give it a ticket.

7 Q. In connection with that, did your partner
8 activate the red light or the overhead
9 light?

10 A. They were already on.

11 Q. And why were they on prior to the vehicle
12 going through the red light?

13 A. Oh, I'm sorry. Right when they went
14 through the light, Debbie activated.

15 Q. What was the approximate rate of speed of
16 the vehicle as you were following it?

17 A. It was not that fast.

18 Q. And if I said facing on Dunkeld Street,
19 would the names of those streets mean
20 anything to you today, as we're sitting
21 here at this deposition?

22 MS. LITSAS: Objection.

23 A. Those streets I remember.

24 Q. As we sit here today, do you have any

1 knowledge or recollection as to where --
2 strike that -- as to what streets or
3 intersections the shooting occurred?

4 A. I do.

5 Q. What streets?

6 A. It was on Dunkeld and Fayston.

7 Q. And your partner and you in the vehicle
8 continued to follow the white Taurus for
9 some period of time, right?

10 A. We did.

11 Q. And would it be fair to say that you made
12 various turns along the way on different
13 streets?

14 A. We did.

15 Q. During the course of time that you
16 were following that vehicle, do you
17 recollect whether it turned onto Fayston
18 Street at some point?

19 A. It did.

20 Q. But prior to it turning onto Fayston
21 Street, do you recollect whether or not
22 it changed its rate of speed at all?

23 A. I don't recall.

24 Q. Well, do you recollect whether it went

1 faster at all?

2 A. It was -- it didn't.

3 Q. Now, when it turned onto Fayston Street,
4 what did your partner do with respect to
5 the vehicle?

6 A. From Dunkeld onto Fayston?

7 Q. I'm sorry, when it turned onto Dunkeld
8 Street, what did your partner do?

9 A. We were still following the car.

10 Q. And it was still proceeding at not too
11 fast a rate of speed, right?

12 MS. LITSAS: Objection.

13 Q. Was it still proceeding at the same rate
14 of speed it had been?

15 MS. LITSAS: Objection.

16 A. I believe so.

17 Q. Putting aside familiarity with that
18 particular set of intersections and
19 streets, do you know if there are
20 different speed limits for different
21 types of neighborhoods, such as a
22 residential neighborhood versus more
23 of like a business district or highway?

24 A. There are.

1 Q. Does that vary depending on how settled,
2 or how populated, or how dense the
3 buildings are in the area?

4 A. Yes.

5 Q. What is your understanding of what the
6 speed limit would be in an area, such as
7 Fayston and Dunkeld?

8 MS. LITSAS: Objection.

9 A. I don't know.

10 Q. But in any event, at no point did that
11 vehicle exceed at that particular point
12 what you considered to be the proper
13 speed limit, right --

14 MS. LITSAS: Objection.

15 Q. Up to the point you got it to Dunkeld
16 Street?

17 MS. LITSAS: Objection.

18 A. At the time on Dunkeld Street it was
19 going the same speed.

20 Q. Right. That's what I was asking.

21 A. But then it was --

22 Q. Don't --

23 MS. LITSAS: Just let him
24 finish. He should be able to finish his

1 answers. You're stopping him, and he
2 should be able to finish.

3 A. At the time we're on Dunkeld Street, it
4 was keeping the same speed. As we got
5 to the top, and then Tommy and Michael
6 appeared, it went fast as it was turning.

7 Q. Now, let's try to break that down
8 second by second, if we can.

9 A. Okay.

10 Q. When you got onto Dunkeld Street,
11 up until that point the vehicle was
12 traveling approximately the same rate
13 of speed?

14 A. Yes.

15 Q. When it turned onto Dunkeld Street, did
16 you turn onto Dunkeld Street after it?

17 A. Yes, we did.

18 Q. Did you maintain more or less the same
19 distance behind the vehicle throughout
20 all the time you were following it up
21 until the point it turned onto Dunkeld
22 Street?

23 MS. LITSAS: Objection.

24 A. We did.

EXHIBIT E

VOL. I
PAGES 1-197
EXHIBITS 1-3

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Civil Action No. 05-11803-MLW

SHENIA DANCY-STEWART
as Administratrix of the Estate of
EVELINE BARROS-CEPEDA
Plaintiff

vs.

THOMAS TAYLOR, JR. AND THE
CITY OF BOSTON
Defendants

C O N F I D E N T I A L

DEPOSITION OF **MICHAEL PAILLANT**, taken on
behalf of the plaintiff, pursuant to the
applicable provisions of the Federal Rules of
Civil Procedure, before Irma Widomski, a
Registered Merit Reporter, and Certified
Shorthand Reporter, No. 131593 in and for the
Commonwealth of Massachusetts, at the Law
Offices of Andrew Stockwell-Alpert, 11 Beacon
Street, Suite 1210, Boston, Massachusetts, on,
Thursday, January 31, 2008, commencing at 10:00
a.m.

WIDOMSKI COURT REPORTING ASSOCIATES
ONE SUNSET DRIVE
WAKEFIELD, MASSACHUSETTS 01880
(781) 246-0710

1 A. Rules and regulations for the Boston police
2 department.

3 Q. Concerning the discharge of firearms?

4 A. Yes, there's updates on that, yes.

5 Q. What can you tell us about the rules and
6 regulations concerning the discharge of firearms
7 of the Boston Police Department?

8 A. They were updated in 2002.

9 Q. From what to what?

10 A. Excuse me.

11 Q. From what to what?

12 MS. LITSAS: Objection.

13 A. What do you mean?

14 Q. Do you understand the question?

15 A. From what?

16 Q. You said they were updated?

17 A. Yes.

18 Q. When you say updated, would it be fair to say
19 that they were amended in some way or revised in
20 some way?

21 A. Yes.

22 Q. What were they amended or revised from?

23 MS. LITSAS: Objection.

24 A. It was in regards to basically incidents

1 involving shooting at moving motor vehicles.

2 Q. And what was the policy before it was revised in
3 2002 concerning moving vehicles?

4 A. Basically it was allowed and after that, it
5 changed.

6 Q. So when you say it was allowed, are you saying
7 it was okay to shoot at moving vehicles before
8 it was changed?

9 MS. LITSAS: Objection.

10 Q. Is that what you said?

11 A. I'm saying that -- I'm saying that it did have
12 provisions in there that told you when you could
13 and when you couldn't.

14 Q. Could you tell us what those provisions were?

15 A. Basically where there was a threat to the
16 officer, you was allowed to do so.

17 Q. Under any other circumstances could you tell us
18 when it was a permissible for a police officer
19 to shoot at a moving vehicle other than when it
20 presented a threat?

21 A. Of threat of bodily, death or bodily harm to the
22 officer or to others.

23 Q. Under any other circumstances, could you explain
24 to us, please, when was it permissible for a

1 Boston police officer to shoot at a moving
2 vehicle other than what-you have told us?

3 A. That's the gist of it right there.

4 Q. Then you say it was changed?

5 A. That's correct.

6 Q. Changed to what?

7 A. It was changed to -- the bill changed that the
8 vehicle was not, the vehicle couldn't be a
9 specific, couldn't be the threat. They would
10 advise you the vehicle wouldn't be a threat.
11 That was the main change.

12 Q. From the time that you became a police officer
13 in 1995 to the present date, Officer, could you
14 explain to us, please, what specific training
15 have you had concerning discharging your firearm
16 at moving vehicles?

17 MS. LITSAS: Objection.

18 A. Basically, a review of the rules and regulations
19 which discussed that.

20 Q. So other than the review of the rules and
21 regulations, what other training have you had
22 concerning discharging your weapon at moving
23 vehicles?

24 A. That's basically it.

- 1 A. Yes.

2 Q. And that was your right hand or your left hand?

3 A. My left hand.

4 Q. What did you do with-your right hand, if
5 anything?

6 A. Nothing.

7 Q. Tell us what happened after you raised your left
8 hand?

9 A. The vehicle continued towards the top of the
10 street. I then withdrew my firearm.

11 Q. When you withdrew your firearm, how close was
12 the vehicle to you?

13 A. Halfway up the street.

14 Q. Halfway up Dunkeld Street?

15 A. Yes.

16 Q. Where were you on Dunkeld Street when you
17 withdrew your weapon?

18 A. Dunkeld and Fayston Street.

19 Q. You were at the intersection of Dunkeld and
20 Fayston Streets?

21 A. Yes.

22 Q. Your cruiser was directly across from you, where
23 you were standing at the intersection of Dunkeld
24 and Fayston Streets?

1 MS. LITSAS: Objection.

2 A. I was too low to do that.

3 Q. Where was your head in relationship to the
4 windows of the vehicle as you were crouched down
5 on the side of the vehicle?

6 A. It was below the -- below the window sill.

7 Q. How long were you crouched down on the side of
8 the window before the vehicle continued moving
9 forward?

10 A. A couple seconds.

11 Q. Where was the vehicle after you rolled over the
12 hood?

13 A. Still going straight about to turn. That wasn't
14 my concentration.

15 Q. And where was the vehicle as you, as your left
16 elbow struck the door, front door and fender of
17 the vehicle?

18 A. Where was what?

19 Q. Where was the vehicle when -- after your elbow
20 struck the door and the fender with the vehicle?

21 A. In the process of turning.

22 Q. How much of the vehicle was on Dunkeld Street
23 and how much of the vehicle was on Fayston
24 Street after your elbow hit the side of the

1 front of me, so that's a negative.

2 Q. How long is Fayston Street? You said a couple
3 of blocks?

4 A. Yes. It's real long.

5 Q. Fayston Street is real long?

6 A. Yes.

7 Q. How long is Perth Street?

8 A. It's short. It's about the length of Dunkeld
9 Street.

10 Q. Which is how long?

11 A. I would have to guess.

12 Q. You told us before that Dunkeld Street was about
13 200 feet?

14 A. That's what I said before, yes.

15 Q. Is Perth Street about the same length as Dunkeld
16 Street?

17 A. Well, they are adjacent to each other so my
18 guess, they would be roughly around the same
19 length.

20 Q. When the car went to Perth Street, did you make
21 any other observations of the vehicle or the
22 occupants of that vehicle?

23 A. No.

24 Q. Did you at any point in time see the occupants

1 exit the vehicle?

2 A. Not on Perth Street.

3 Q. Where did you make that observation?

4 A. On Quincy Street.

5 Q. Tell us what you saw.

6 A. I saw three occupants exit the vehicle.

7 Q. And what happened after you saw the three
8 occupants exit the vehicle?

9 A. They ran to adjacent yards and then over a
10 fence.

11 Q. Were these males or females?

12 A. It appeared to be males.

13 Q. Black males, white males?

14 A. They appeared to be dark-skinned males.

15 Q. What kind of clothes were they wearing?

16 A. They were just dark clothing. I don't have any
17 specifics on these individuals.

18 Q. Did you continue walking down Perth Street after
19 you saw these vehicles exit the vehicle on
20 Quincy?

21 A. I continued hobbling down Perth Street, yes.

22 Q. As you were walking down Perth Street, or
23 hobbling down Perth Street, did you see the
24 cruiser, the original cruiser that you saw with

EXHIBIT F

VOL. I

PAGES 1-100

EXHIBITS -1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Civil Action No. 05-11803-MLW

SHENIA DANCY-STEWART
as Administratrix of the Estate of
EVELINE BARROS-CEPEDA
Plaintiff

vs.

THOMAS TAYLOR, JR., AND THE
CITY OF BOSTON
Defendants

C O N F I D E N T I A L

DEPOSITION OF LUIS A. CARVALHO, taken
on behalf of the defendant, pursuant to the
applicable provisions of the Federal Rules of
Civil Procedure, before Irma Widomski, a
Registered Merit Reporter, and Certified
Shorthand Reporter, No. 131593 in and for the
Commonwealth of Massachusetts, at the Law
Department, City Hall, Boston, Massachusetts, on
Wednesday, January 16, 2008, commencing at 2:20
p.m.

ORIGINAL

1 car was on Dunkeld Street, did you ever see
2 a member of the Boston Police Department?

3 A. On Dunkeld Street?

4 Q. Yes.

5 A. Before we passed the cruiser or while we was
6 on Dunkeld?

7 Q. While you were on Dunkeld Street, did you
8 ever see a member of the Boston Police
9 Department?

10 A. No, I don't recall.

11 Q. What were you doing while you were in the
12 car on Dunkeld Street?

13 A. I was just sitting. I was ducked down just
14 sitting slouched down.

15 Q. Why were you slouched down?

16 A. That's how I sit in the car basically.

17 Q. What was Maria DeRosa doing in the car?

18 A. I can't tell you.

19 Q. You were in the back seat with her, right?

20 A. Yes. I was near the passenger's side.

21 Q. What was Eveline Barros-Cepeda doing while
22 you were on Dunkeld Street?

23 A. I couldn't tell you.

24 Q. You were sitting next to her?

EXHIBIT G

VOL. I
PAGES 1-155
EXHIBITS A-F

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Civil Action No. 05-11803-MLW

SHENIA DANCY-STEWART
as Administratrix of the Estate of
EVELINE BARROS-CEPEDA
Plaintiff
vs.

THOMAS TAYLOR, JR. AND THE
CITY OF BOSTON
Defendants

C O N F I D E N T I A L

VIDEOTAPED DEPOSITION OF THOMAS TAYLOR,
JR., taken on behalf of the plaintiff, pursuant
to the applicable provisions of the Federal
Rules of Civil Procedure, before Irma Widomski,
a Registered Merit Reporter, and Certified
Shorthand Reporter, No. 131593 in and for the
Commonwealth of Massachusetts, at the Law
Offices of Andrew Stockwell-Alpert, 11 Beacon
Street, Suite 1210, Boston, Massachusetts, on,
Monday, February 4, 2008, commencing at 10:00
a.m.

WIDOMSKI COURT REPORTING ASSOCIATES
ONE SUNSET DRIVE
WAKEFIELD, MASSACHUSETTS 01880
(781) 246-0710

1 THE VIDEOGRAPHER: The time is 11:13.
2 We are off the record.

3 (Recess.)

4 THE VIDEOGRAPHER: The time is 11:20.
5 We are back on the record.

6 MR. STOCKWELL-ALPERT: May I have this
7 marked as Exhibit A?

8 (Exhibit A marked for identification.)

9 Q. Officer Taylor, I have marked a document as
10 Exhibit A. The title of the document is the
11 subject Rule 303, Use of Deadly Force. I'm
12 going to ask you to take a look at Exhibit A.
13 I'm going to ask you particularly to look at
14 paragraph or section eight of Exhibit A, and
15 after you have taken a good look at it, I'm
16 going to ask you some questions.

17 A. Okay.

18 Q. Do you recognize this to be the policy under
19 Rule 303 that existed at the time of this
20 incident?

21 MS. LITSAS: Just one objection,
22 Andrew. I think that this is not the updated
23 one.

24 MR. STOCKWELL-ALPERT: I'm not looking

1 for the updated one.

2 MS. LITSAS: I believe that this was
3 in 1997.

4 I don't think this was the one that
5 was in effect in 2002.

6 MR. STOCKWELL-ALPERT: I think it was,
7 but we can dispute that.

8 Q. Officer, I would like you to look at that, which
9 is my question. I would like to ask you if your
10 understanding is that this was the policy as you
11 recollect it that was in effect particularly
12 with respect to section eight which is the only
13 section that I'm really concerned about here?

14 A. Yes.

15 Q. And that would be the section eight that you
16 recollect as it was in effect in 2002?

17 MS. LITSAS: Actually, I would object,
18 Andrew, because that is not the rule that was in
19 effect in 2002. The provision of section eight
20 that is presented in that document is not the
21 provision that was in effect in 2000.

22 Q. Is this your understanding of the rule as it
23 existed and the substance of the rule that you
24 were under at the time in 2002?

1 A. It appears to be, yes.

2 Q. Now, with that in mind --

3 MS. LITSAS: Again, I object. I move
4 to strike the answer because the section eight
5 that is provided in that document does not
6 contain the full substance of the rule of
7 section eight that was in effect at the time of
8 the incident in 2002. There are several
9 sentences that are not included in section eight
10 that is included in, that are missing from
11 Exhibit A.

12 Q. Well, if you're looking at a document that
13 differs from that that you have in mind, I would
14 like to see what you're looking at and we can go
15 by that one, but in the meantime, the office
16 says this is the rule -- see rental -- in
17 substance at that time and that's what I'm
18 willing to go by.

19 MS. LITSAS: Here, here we are.

20 MR. STOCKWELL-ALPERT: Okay. I think
21 we need to go off the record briefly.

22 THE VIDEOGRAPHER: The time is 11:24,
23 we are off the record.

24 MR. STOCKWELL-ALPERT: We're going to

1 take a five-minute break.

2 (Exhibit B marked for identification.

3 THE VIDEOGRAPHER: The time is 11:30.

4 We are back on the record.

5 Q. Now, I'm going to direct your attention to a
6 document marked as Exhibit B which is Use of
7 Deadly Force with the date on the upper right of
8 August 3, 2000. I'm going to ask you to examine
9 that document and particularly draw your
10 attention to section eight?

11 A. Okay.

12 Q. Are you aware from having looked at Exhibit A
13 and looked at Exhibit B, of any change in the
14 language in paragraph -- in section eight?

15 A. Yes.

16 Q. So, looking at section eight, what is the title
17 on that section, please, could you read that out
18 loud?

19 MS. LITSAS: Andrew, which?

20 Q. Exhibit B.

21 A. Section eight, moving fleeing vehicles.

22 Q. Would you agree with me that section eight is a
23 provision that governs when it's appropriate or
24 not appropriate to discharge a firearm at a

1 moving or fleeing vehicle?

2 MS. LITSAS: Objection.

3 A. I would say it was guidelines.

4 Q. Can you, please, read the first paragraph of
5 section eight?

6 A. Firearms shall not be discharged from or at a
7 moving or fleeing vehicle unless the officer or
8 another person is currently being threatened
9 with deadly force by an occupant of the target
10 vehicle. For purposes of this section, the
11 moving vehicle itself shall not constitute the
12 threatened use of deadly force unless there are
13 no reasonable or apparent means of escape.
14 Therefore, officers shall move out of the path
15 of any oncoming vehicle instead of discharging a
16 firearm at it, or at any of its occupants unless
17 there are no reasonable or apparent means of
18 escape.

19 Do you want me to continue?

20 Q. No, that's fine. Thank you. Please continue
21 reading the section.

22 A. Okay. The above prohibition exists for two
23 reasons. The probability that bullets will
24 ricochet and cause injury to innocent persons,

1 or B, the probability that the vehicle will
2 crash and cause injury to innocent persons if
3 the bullets do not ricochet but disable the
4 operator.

5 Q. Would you say that the criteria that existed
6 after 2000, August 3, under which an officer was
7 permitted to discharge a firearm at a moving
8 vehicle had gotten more strict than they were
9 before then?

10 MS. LITSAS: Objection.

11 A. No.

12 Q. Did the circumstances under which an officer
13 could discharge a firearm at a moving vehicle
14 change in any way to your knowledge -- to your
15 understanding as a result of the language in
16 this section eight?

17 MS. LITSAS: Objection.

18 A. Change when?

19 Q. Well, wouldn't it be fair to say that the deadly
20 force being used had to come from something
21 besides the moving vehicle itself under this
22 rule and that wasn't the case previously?

23 MS. LITSAS: Objection.

24 A. From what I understand, yes.

1 investigation by the homicide unit, did you --
2 strike that.

3 Could you, please, mark both of these
4 documents as Exhibit C, please collectively.
5 Maybe we should make it C and D.

6 (Exhibits C-D marked for identification.)

7 Q. What's the next thing that drew your
8 attention -- strike that.

9 Why did you draw your gun when you saw
10 Officer Paillant draw his gun?

11 A. That's what I'm trained to do.

12 Q. For what reason?

13 A. He's a trained officer with the same training
14 I've got. If he felt it necessary to pull his
15 gun out, then I should pull mine out and be
16 ready.

17 Q. Up until that point, you -- had you made any
18 observations of anything that would cause you to
19 pull your gun out if he hadn't pulled his gun
20 out?

21 MS. LITSAS: Objection.

22 A. No.

23 Q. What's the next thing that happened? By that I
24 mean the next second in time? We are going to

1 take this second by second. The very next thing
2 that happened?

3 MS. LITSAS: Objection.

4 A. I couldn't tell you second by second.

5 Q. What's the next thing that happened?

6 A. This all unfolded rather quickly.

7 Q. What is the next thing that happened?

8 A. After I stepped in front of Ms. Cummings and
9 told her to stay and pulled my gun out, I saw
10 the white car come up Dunkeld and strike Officer
11 Paillant as he was trying to move to his left.

12 Q. How soon after you pulled your gun out did you
13 first see the white car?

14 A. It seemed almost as soon as I did.

15 Q. And from what direction was the white car
16 coming?

17 A. It was coming up Dunkeld on to, up to Fayston.

18 Q. Did you change your position at all on Fayston
19 Street during any of the time that you were
20 observing the white car coming down Dunkeld
21 Street towards Officer Paillant?

22 A. I didn't see it coming towards him. I saw it
23 hitting him.

24 Q. At any time prior to your seeing the car hit

1 A. Yes.

2 Q. And that's when you started shooting, right?

3 MS. LITSAS: Objection.

4 A. That's when I lost sight of him. I raised my
5 arm to shoot, and I could see Mr. Nicholas in
6 the cruiser.

7 MS. LITSAS: I would ask that you let
8 him finish his answer.

9 A. I saw Mr. Nicholas, as my arm is raised and I
10 stepped from the parked cars to the street and I
11 started -- I took a breath.

12 Q. Okay. Time to take a break.

13 A. I took a breath. And I had to aim, I took a
14 breath, and I asked God to be with me.

15 Q. Yes.

16 A. And I started shooting.

17 Q. Let's take a break.

18 THE VIDEOGRAPHER: The time is 2:23.
19 We're off the record.

20 (Recess.)

21 THE VIDEOGRAPHER: The time is 2:30.
22 We are back on the record.

23 Q. Could you read back the last answer, please?
24 (Answer read back as requested.)

1 Q. That's what I was trying to ask. And how
2 soon --

3 MS. LITSAS: Objection.

4 Q. After you saw his body strike the hood, how soon
5 after that did you lose sight of him?

6 A. I don't know.

7 Q. Was it a second? Was it two seconds?

8 A. I don't know. It was quick.

9 Q. Was it less than five seconds?

10 MS. LITSAS: Objection.

11 A. I just know it was fast.

12 Q. And was it simultaneously with your losing sight
13 of him that you began -- that you prayed to God
14 and started to shoot?

15 MS. LITSAS: Objection.

16 A. When I lost sight?

17 Q. Yes.

18 A. I raised my arm.

19 Q. Right.

20 A. I could see Mr. Nicholas, I stepped from the
21 parked cars, and that's when I started shooting.

22 Q. When you started shooting, you were looking at
23 the vehicle, right?

24 MS. LITSAS: Objection.

1 pray to God and shoot at the vehicle and speak
2 to Mr. Nicholas?

3 MS. LITSAS: Objection.

4 A. I saw Mr. Nicholas --

5 Q. Let him answer, please.

6 A. I saw Mr. Nicholas just after I raised my arm, I
7 was going to shoot.

8 Q. Yes.

9 A. I saw him in the back of the cruiser and I saw
10 his head moving around.

11 Q. Yes.

12 A. That's when I stepped from where I was in the
13 line of the parked cars, that's when I stepped
14 to the right more into the street but still kind
15 of tight against the parked cars. That's when I
16 took a breath, prayed, and shot.

17 Q. Do you recollect other than -- you know who
18 other than -- that you told at any time after
19 2002 that you saw Mr. Nicholas in the vehicle
20 prior to praying to God and shooting?

21 MS. LITSAS: Objection.

22 A. I'm sorry. Can you repeat that?

23 Q. Yes. Do you recollect telling anybody else at
24 any time with the exceptions that we've

1 Q. Yes, I do.

2 A. Okay. Could I aim where?

3 Q. At the inside of the vehicle? I'll strike the
4 question.

5 MS. LITSAS: Objection.

6 Q. You never saw --

7 MS. LITSAS: Andrew, I will ask that
8 he sit down unless you're going to ask him to do
9 any other physical demonstrations.

10 MR. STOCKWELL-ALPERT: Okay, but I may
11 ask him to stand again in time.

12 MS. LITSAS: But to the extent while
13 you're questioning him while he's standing.

14 Q. Okay. You can sit down but I may ask you to get
15 up in a second.

16 MS. LITSAS: Thank you.

17 Q. You had no idea, you hadn't seen any driver of
18 the vehicle at any point, had you?

19 A. No.

20 Q. You hadn't seen any passengers in the vehicle at
21 any point, had you?

22 A. No, I did not.

23 Q. You didn't know how many people were in the
24 vehicle, right?

1 A. No.

2 Q. You didn't know anything about the number or
3 nature of the occupants in the vehicle, did you?

4 A. No.

5 Q. And you had never received any training in other
6 methods of stopping a moving vehicle?

7 MS. LITSAS: Objection.

8 Q. Up to that point, right?

9 A. Can you rephrase that?

10 Q. You had never received any training with regard
11 to methods of stopping a moving vehicle in the
12 use of a firearm, right?

13 MS. LITSAS: Objection.

14 A. No.

15 Q. So this was your split second decision that you
16 made about how you thought it was appropriate to
17 stop this vehicle under the circumstances,
18 right?

19 MS. LITSAS: Objection.

20 A. It was the only decision I had.

21 Q. And it was very important to you to stop this
22 vehicle, right?

23 MS. LITSAS: Objection.

24 A. I would say it was important to save a life.

1 Q. Now, prior to stepping out into the street, and
2 praying to God and aiming your gun and shooting
3 it, you never once called out to your partner,
4 did you? -

5 MS. LITSAS: Objection.

6 A. I don't remember.

7 Q. Do you remember at any point, anybody other than
8 the designated people that we know that we're
9 not supposed to ask you about that you ever --
10 that you called out to your partner?

11 MS. LITSAS: Objection.

12 A. I'm sorry. Can you ask that again?

13 Q. Did you ever tell anybody in connection with any
14 investigation at any time that you made any
15 effort to call out to your partner before
16 shooting?

17 MS. LITSAS: Objection.

18 A. No, no.

19 Q. Did you attempt to get your partner's attention
20 through the use of your walkie-talkie or
21 communication equipment?

22 A. At what time?

23 Q. Prior to your determination and prior to your
24 deciding to shoot into the vehicle?

1 A. Did I attempt to get his attention on the
2 walkie-talkie?

3 Q. Or other police communication? Strike that.

4 Do you have any means -- strike that.

5 Did you have any means of
6 communicating through any communication
7 equipment that was on your person with your
8 partner at the time you shot at the vehicle?

9 A. Yes.

10 Q. Did you make any attempt to try to contact your
11 partner on that communication equipment prior to
12 shooting into the vehicle?

13 MS. LITSAS: Objection.

14 A. No.

15 Q. Did you make any -- do you have any or did you
16 have at that time, any equipment on your person
17 with which you could communicate with your
18 partner if you wanted to?

19 MS. LITSAS: Objection.

20 A. Yes.

21 Q. What was that equipment?

22 A. That would be my portable radio. You may call
23 it a walkie-talkie.

24 Q. You might use that, for example, if the two of

1 you were involved in different locations doing
2 different things and wanted to talk back and
3 forth with each other?

4 A. Yes.

5 Q. So that would be the same equipment that you
6 could use if you wanted to say, hey, is
7 everything okay, for example?

8 MS. LITSAS: Objection.

9 A. You can use it for that but not in that time
10 frame. It's much too slow.

11 Q. And did you consider the possibility that --
12 strike that.

13 You didn't know at the time you shot
14 whether your partner had actually succeeded in
15 getting out of the way of the vehicle?

16 MS. LITSAS: Objection.

17 Q. After he was struck, right?

18 MS. LITSAS: Objection.

19 A. He didn't get out of the way. He got hit.

20 Q. After he got hit, you are aware that he got up
21 within seconds after that?

22 MS. LITSAS: Objection.

23 A. I'm aware that he did get up.

24 Q. And you don't know what he did, if anything, on

1 his own to make himself safe from being further
2 struck or run over or dragged by the vehicle
3 before you shot at it, did you?

4 MS. LITSAS: Objection.

5 A. No. I don't know where he was. I didn't see
6 him.

7 Q. And so although he might have been having a
8 problem with the vehicle at that point in time,
9 he might have been perfectly safe at the point
10 you started shooting, right?

11 MS. LITSAS: Objection.

12 A. I don't know. That's just, that's a
13 speculation.

14 Q. Well, a woman is dead as a result of your
15 shooting, right?

16 MS. LITSAS: Objection.

17 A. I understand.

18 Q. And the question is did you consider the
19 possibility that maybe you didn't need to shoot
20 because the situation wasn't what you decided it
21 was when you immediately decided to shoot?

22 MS. LITSAS: Objection.

23 A. Everything happened very quickly and we are
24 trained to make decisions in a split second.

1 And if we don't make decisions, people will die,
2 people can die, but if we freeze, things can
3 turn out differently. I didn't know where my
4 partner was at the time and I'm trained to
5 react. I wouldn't be a normal bystander who
6 could stand there and look and not react because
7 that would be a neglect of my duty. I had to
8 react.

9 Q. Wouldn't yelling out to your partner to find out
10 if he was safe kind of reaction that might be
11 more appropriate than immediately shooting?

12 MS. LITSAS: Objection.

13 A. No.

14 Q. Well, as part of your -- strike that.

15 You said you're trained to react
16 quickly in situations, right?

17 A. Yes.

18 Q. But you have never been trained about the
19 situations in which to react at shooting at a
20 moving vehicle, right?

21 MS. LITSAS: Objection.

22 A. When we're trained, they said this is the job
23 from A to Z. You'll be called to do many
24 different things and they're going to teach us a

1 spot, that the vehicle might actually stop on
2 top of the officer and you would have succeeded
3 in killing the officer by killing the driver?

4 MS. LITSAS: Objection.

5 A. What was the question?

6 Q. Did you consider that if you succeeded in
7 killing the driver immediately with the first
8 bullet, that if your concern was that your
9 partner might be under the vehicle, that you
10 would accomplish your partner being crushed to
11 death by the vehicle?

12 MS. LITSAS: Objection.

13 A. No.

14 Q. Did you consider it a possibility that bullets
15 might ricochet off the car or building and
16 strike your partner and kill him?

17 MS. LITSAS: Objection.

18 A. Off the buildings?

19 Q. Yes.

20 A. No. I'm a pretty good shot.

21 Q. How about off the car?

22 So, I heard you say you're a pretty
23 good shot. Do you pride yourself on your
24 marksmanship?

1 MS. LITSAS: Objection.

2 A. I think I'm a pretty good shot.

3 Q. That includes shooting at moving vehicles which
4 you never had an opportunity to shoot at before?

5 MS. LITSAS: Objection.

6 A. I have not had an opportunity to shoot at a
7 moving vehicle before.

8 Q. So what made you think that your skills were
9 transferable to shooting at a moving body -- to
10 shooting at a moving vehicle?

11 MS. LITSAS: Objection.

12 A. Because I'm a good shot.

13 Q. Well, are you aware, we have three specifically
14 speaks to the issue that it's almost impossible
15 you don't necessarily ever stop a vehicle by
16 shooting at it?

17 MS. LITSAS: Objection.

18 A. That's not what I'm aware of.

19 Q. Well, while you were shooting your --
20 discharging your firearm, you weren't keeping
21 track of the alleged sexual assault victim and
22 where she was, were you?

23 MS. LITSAS: Objection.

24 A. I had told her to stay behind me.

1 Q. While you were discharging your firearm and
2 paying attention to this car which you wanted to
3 stop desperately, you were no longer paying
4 attention to where she was; were you?

5 MS. LITSAS: Objection.

6 A. I told her stay behind me.

7 Q. Does that mean if she got killed by a
8 ricocheting bullet that it was her fault?

9 MS. LITSAS: Objection.

10 A. I can't answer that.

11 Q. What about James Nicholas, he was still in the
12 cruiser, wasn't he?

13 A. That's why I stepped up, stepped out.

14 MS. LITSAS: Objection.

15 Q. Did you ever consider it a fact if you were
16 shooting at a vehicle, that you might actually
17 cause a ricochet that could kill James Nicholas?

18 MS. LITSAS: Objection.

19 A. I'm sorry, what was that question?

20 Q. Did you consider the possibility that while you
21 were shooting at the vehicle, a bullet might
22 ricochet and kill James Nicholas in your own
23 police vehicle?

24 MS. LITSAS: Objection.

1 A. I considered James Nicholas, that's why I
2 stepped into the street instead of firing from
3 standing in the middle of parked cars.

4 Q. So you think you cured the possibility of
5 ricocheting bullets killing James Nicholas
6 because you stepped out into the street?

7 MS. LITSAS: Objection.

8 A. I definitely know I took him out of my sight,
9 out of the picture which would seriously
10 decrease the chances of him getting hit.

11 Q. Well, what data do you have to support your
12 statement that taking him out of the picture
13 meant he was safe from ricocheting bullets?

14 MS. LITSAS: Objection.

15 A. I don't have any data on the ricocheting
16 bullets.

17 Q. In fact, wouldn't it be fair to say your many
18 years as a police officer, you're aware of
19 instances in which drive-by shootings in the
20 streets have resulted in innocent civilians in
21 apartment buildings several stories up being
22 killed by ricocheting bullets?

23 MS. LITSAS: Objection.

24 A. No.

1 slowed down the vehicle as a result of your
2 shooting so you stopped?

3 MS. LITSAS: Objection.

4 A. It was before Perth.

5 Q. About how far before?

6 A. I don't know, sir.

7 Q. How long an interval was there between the first
8 shot and the second shot?

9 MS. LITSAS: Objection.

10 A. I would rather not guess on the time frame but I
11 can tell you it's very fast, the shooting.
12 We're trained to shoot two or three shots at a
13 time, not one.

14 Q. Two or three at a time?

15 A. At least.

16 Q. And then you take a pause?

17 A. No. I'm saying we're not trained to just shoot
18 a shot and wait to see what happens and then
19 shoot another shot, because if you're being
20 attacked, more than likely, one shot would not
21 stop someone. So we're trained to shoot two or
22 three very quickly.

23 Q. And that's the same training that you applied to
24 shooting at a moving vehicle when you were not

1 being shot at and you were not a target, right?

2 MS. LITSAS: Objection.

3 Q. Did you apply that same training to the
4 situation where the vehicle was moving away from
5 you?

6 MS. LITSAS: Objection.

7 A. I applied the training that we were taught. You
8 use it to overcome the force that's being --
9 that you're being met with, and as long as the
10 car is still driving, my partner is still in
11 danger so I shot.

12 Q. Well, let's --

13 A. Until it stopped.

14 Q. Let's talk about that. My understanding from
15 what you told the homicide unit, correct me if
16 I'm wrong, is that the moment you put your gun
17 back down --

18 A. Hm-mmm.

19 Q. -- You saw your partner out of the corner of
20 your eye?

21 A. Correct.

22 Q. So you shot these bullets, okay?

23 A. Mm-hmm.

24 Q. And put the gun down and then you saw your

1 partner?

2 A. Yes.

3 Q. And your partner was getting up?

4 MS. LITSAS: Objection.

5 Q. Right.

6 A. It appeared he was getting up from the ground.

7 Q. Right. And which eye did you see him out of the
8 corner of?

9 A. My right.

10 Q. Which means if I'm not mistaken, that you would
11 have been looking down Fayston Street shooting
12 down Fayston Street?

13 MS. LITSAS: Objection.

14 Q. And then saw your partner out of the corner of
15 your eye, right?

16 MS. LITSAS: Objection.

17 A. I saw him in my peripheral vision.

18 Q. So, would it be fair to say if you had put your
19 gun down before firing a third shot or fourth
20 shot or second shot, you might have been able to
21 determine that your partner was okay before you
22 killed an innocent person?

23 MS. LITSAS: Objection.

24 A. It's not fair to say that.

1 MS. LITSAS:. Objection.

2 A. In training, yes.

3 Q. Would you have shot ten bullets if it was
4 necessary to stop this vehicle?

5 MS. LITSAS: Objection.

6 A. I can't answer that.

7 Q. Why? Why can't you answer that?

8 A. Because you're asking me something that hasn't
9 happened.

10 Q. Well, you were bent on stopping the vehicle,
11 right, that's what you wanted to do, right?

12 MS. LITSAS: Objection.

13 Q. Correct?

14 A. I'm sorry.

15 Q. You were determined to stop the vehicle, right?

16 MS. LITSAS: Objection.

17 A. I was trying to make sure my partner was safe.

18 Q. And you didn't put your arm down and see that
19 your partner was actually getting up before you
20 discharged five bullets into the vehicle, or at
21 the vehicle, right?

22 MS. LITSAS: Objection.

23 A. No, I did not.

24 Q. If the vehicle had continued to not be stopped,

1 A. I don't remember.

2 Q. Do you recollect the distance that you -- strike
3 that. And the walking that you were doing was
4 down Fayston Street, right?

5 A. Yes.

6 Q. So you were walking and firing and walking and
7 firing down Fayston Street, right?

8 MS. LITSAS: Objection.

9 Q. Right?

10 MS. LITSAS: Objection.

11 A.. I'm walking and shooting.

12 Q. Down Fayston Street, right?

13 A. I'm shooting at the driver's side of the
14 vehicle. I'm walking down Fayston Street.

15 Q. Walking down Fayston Street and shooting at the
16 vehicle which was in front of you down Fayston
17 Street, correct?

18 MS. LITSAS: Objection.

19 A. Okay, yes.

20 Q. And meanwhile, the last point of contact that
21 you had with Officer Paillant was back at the
22 intersection of Dunkeld and Fayston where he was
23 struck, correct?

24 A. A little bit further from the intersection

1 because he went out on the hood of the car and -
2 the car was still moving when he disappeared.

3 Q. After he disappeared --

-4 MS. LITSAS: Counsel, I would ask you
5 to let him finish his answer.

6 Q. Fine, okay.

7 A. When he disappeared, he would have been on
8 Fayston.

9 Q. And you continued to walk as you were shooting
10 further down Fayston behind the vehicle, right?

11 MS. LITSAS: Objection.

12 A. I don't know how far I walked.

13 Q. Certainly far enough to know that your partner
14 was no longer under the vehicle and being
15 dragged by it while you were shooting, right?

16 MS. LITSAS: Objection.

17 A. Is that a question?

18 Q. Yes.

19 A. No.

20 Q. No? And you said you stopped shooting when you
21 realized that your efforts had succeeded in
22 stopping the vehicle, right?

23 MS. LITSAS: Objection.

24 A. I stopped shooting when the car slowed down and

1 one of the doors opened.

2 Q. Did the doors open on Fayston Street?

3 A. Yes.

4 Q. Did you have any idea if or how many people you
5 killed by that time?

6 MS. LITSAS: Objection.

7 A. I didn't know I killed anyone.

8 Q. Did you see whether or not you shot the rear
9 windshield out of the vehicle at the time?

10 A. Yes.

11 Q. You succeeded in shattering the glass in the
12 windshield, right?

13 A. The rear windshield.

14 Q. Which means a bullet any time you fired after
15 that could have gone straight through the
16 vehicle, right?

17 MS. LITSAS: Objection.

18 A. Just because the rear window was shattered --
19 what are you trying to say?

20 Q. I think you answered the question. And the
21 vehicle turned onto Perth Street?

22 A. I'm sorry.

23 Q. The vehicle turned onto Perth Street, right?

24 A. After the door opened, yes.

1 A. I didn't see him.

2 Q. And when you saw him, okay -- strike that. So
3 what did you see him do? Strike that. Did you
4 see him get to the intersection of Fayston and
5 Perth?

6 A. I don't remember. I know I saw him get up and
7 just start running.

8 MR. STOCKWELL-ALPERT: One minute.

9 Q. Was there any point at all in the rest of that
10 night at which you saw Officer Paillant?

11 A. Yes.

12 Q. When was the first time after you initially lost
13 contact with him when he was struck by the
14 vehicle did you see him?

15 MS. LITSAS: Objection.

16 A. When I lowered my arm and I saw him getting up
17 off the ground.

18 Q. When was the next point after you saw him
19 running down Fayston Street? Strike that.

20 Did you ever lose sight of him, okay,
21 as he was running down Fayston Street?

22 A. Yes.

23 Q. When was the next point at which you lost sight
24 of him?

EXHIBIT H

UNITED STATES BANKRUPTCY COURT

DISTRICT OF MASSACHUSETTS

COPY

Civil Action

Case No. 05-11803-MLW

* * * * *

SHENIA DANCY-STEWART AS *

ADMINISTRATRIX OF THE ESTATE OF *

EVELINE BARROS-CEPEDA *

-V- *

THOMAS TAYLOR, JR., AND THE *

CITY OF BOSTON *

* * * * *

DEPOSITION OF JAMES NICOLAS

Examination taken at the Offices of the City
Solicitor, One City Hall Plaza, Elm Street,
Manchester, New Hampshire, on Tuesday, January 15,
2008, commencing at 11:45 a.m.

Court Reporter:

Elaine J. Ritsema, CCR, RPR

CCR No. 92 (RSA 331-B)

1 that's the house. That was the house. The car
2 (indicating) --

3 Q. Okay. Why don't you mark an X where the
4 house was that you were -- where you were in the car,
5 in the police cruiser. Can you just mark an X so that
6 we can understand what your testimony is when you --
7 when you are drawing this and when we read this
8 transcript.

9 So why don't we do this --

10 A. I'm bad in drawing. It's better for me
11 to talk about it and then -- you know, me drawing, to
12 be honest with you. 'Cause me drawing something, you
13 know -- 'cause I already swear an oath. What about if
14 I draw something and it's not the right way, you know,
15 the street look like?

16 (Speakers overlap)

17 Q. We understand that. We're only asking
18 you to do the best of your ability. Why don't you
19 tell me what happened; and then if we need to draw it,
20 we can do that.

21 A. Thank you.

22 Q. Okay.

23 A. When I was -- like I said, when I was in
24 the car after he finish talk to me or whatever, you

1 know, after the lady -- you know what I'm saying --
2 see my face, it-wasn't me, he was about to let me go.

3 But it was a car who was speeding. It
4 was going fast. I don't remember exactly if they hit
5 him on his leg, you know; but the car almost take his
6 leg off.

7 So the officer who was with me, I didn't
8 see him do any shooting. Okay? If I told you I see
9 him shoot, shoot anybody, I be lying to you. I didn't
10 see him do any shooting. But I do hear the shotgun.
11 I do hear the shotgun and everything.

12 So it was -- and after -- after --
13 actually, it was another car, too, who was chasing
14 that car --

15 Q. And what --

16 A. -- you know, the officer. The cruiser
17 who was chasing that car.

18 Q. Mm-hmm.

19 A. So it was like everything happened so
20 fast, you know; and it was like after all that
21 happened, I was still --

22 (Reporter asks to repeat)

23 A. I was still in the same street. 'Cause
24 after that shooting or whatever it is, I couldn't go

EXHIBIT I

COPY

VOLUME I

PAGES: 1 - 92

EXHIBITS: 1 - 4

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

C.A. NO. 05-11803-MLW

* * * * *

SHENIA DANCY-STEWART, as
Administratrix of the Estate
of EVELINE BARROS-CEPEDA,
Plaintiffs,

vs.

THOMAS TAYLOR, JR., and the
CITY OF BOSTON,
Defendants.

* * * * *

DEPOSITION OF TREVO CARTER,
taken on behalf of the Defendants, pursuant
to the Massachusetts Rules of Civil
Procedure, before Karen Borreson, RPR, Notary
Public within and for the Commonwealth of
Massachusetts, at the law offices of City of
Boston, City Hall, Boston, Massachusetts, on
Thursday, January 17, 2008, commencing at
2:35 p.m.

1 Q. Followed by a police cruiser?

2 A. Yes.

3 Q. And what happens next after the car
4 accelerates?

5 A. The car -- the cop got hit. Um, - out of view
6 for me as he got hit. He didn't fly in the
7 air.

8 MR. STOCKWELL-ALPERT: I didn't hear
9 that.

10 A. He was out of view for me, because the other
11 cars were parked in the street. He didn't
12 fly in the air. He wasn't a hit like he got
13 flipped in the air. So I couldn't see after
14 that. I knew he went to the ground,
15 obviously, and the car went right around
16 him. Went around where he was at and went
17 on to Fayston.

18 Q. What hits the officer?

19 A. The car.

20 Q. The same car that's the screeching car?

21 A. Yes.

22 Q. And what part of the car hits the officer?
23 And what I'm asking you is it the driver's
24 side or the front seat passenger side, if

1 car?

2 A. No.

3 Q. What were the occupants of the police
4 vehicle doing at the time that the officer
5 moved into the middle of the street who was
6 eventually hit?

7 MR. STOCKWELL-ALPERT: Objection.

8 A. Meaning? Say that again, I'm sorry.

9 Q. I'll rephrase the question.

10 Did you see the occupants of the
11 police car doing anything at the time that
12 the other officer moved into the street?

13 A. No. He didn't do anything.

14 Q. Were they still inside the vehicle, the
15 police vehicle?

16 A. Yes, they was.

17 Q. At any point did the occupants of the police
18 vehicle move outside the police vehicle that
19 you saw?

20 A. No.

21 Q. After the vehicle collides with the officer,
22 and the officer falls on the ground, what
23 happens next at that point?

24 MR. STOCKWELL-ALPERT: Objection.

1 A. The car takes off onto Fayston.

2 Q. The screeching car? --

3 A. Yes. Immediately the officer that got hit
4 gets back up and that's when I seen the
5 other officer that was attending to
6 something I don't know on Fayston is coming
7 down. They both -- the officer that got hit
8 ran over, the other officer come running
9 down, too.

10 Q. What happens next?

11 A. That's when the hear the gun shots.

12 Q. How much time passes when the officer being
13 struck by the screeching car and the shots
14 are fired?

15 A. After -- after the cop got struck? It was
16 seconds. It all happened so fast.

17 Q. At the time that you hear the gun shots,
18 what is the officer on the ground doing?

19 A. He already left running the street towards
20 Fayston. He ran down Fayston.

21 Q. How much time elapses between the time that
22 the officer is struck by the vehicle and the
23 time that he's on the ground?

24 A. It was seconds.

COPY

Volume: II

Pages: 93-171

Exhibits: NONE

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS COURT

C. A. NO. 05-11803-MLW

SHENIA DANCY-STEWART as *

Administratrix of the Estate of *

EVELINE BARROS-CEPEDA, *

Plaintiff, *

v. *

THOMAS TAYLOR, JR., and the CITY *

OF BOSTON, *

Defendants. *

CONTINUED DEPOSITION of TRAVO CARTER, a
witness called on behalf of the Defendants, taken
pursuant to the Federal Rules of Civil Procedure,
before Marie T. Williams, Professional Court Reporter
and Notary Public, in and for the Commonwealth of
Massachusetts, at the City of Boston Law Department,
City Hall, Room 615, Boston, Massachusetts, on
Wednesday, March 12, 2008, commencing at 10:37 a.m.

1 believe, that he didn't fly through the air
2 over the white car; is that correct?

3 MS. LITSAS: Objection.

4 A. He didn't?

5 Q. He did not fly through the air.

6 A. No.

7 Q. You also stated, I believe, that at some point
8 in time you saw the car go around the
9 officer --

10 MS. LITSAS: Objection.

11 Q. -- after the officer was struck? Do you
12 remember saying that?

13 MS. LITSAS: Objection.

14 A. Not like going around him completely, but
15 moving out of where he's at. Like, the car
16 wasn't trying to run him over. So just move to
17 get around him. You know what I'm saying?

18 Q. Was this before the officer was struck or after
19 the officer was struck when you saw this white
20 Taurus try to go around the officer?

21 MS. LITSAS: Objection.

22 A. It was both.

23 Q. Both?

24 A. Yes.

1 Q. Let's talk about that, if we could, just for a
2 minute. -

3 A. Sure.

4 Q. Before the officer was struck, what do you mean
5 when you say you saw the car try to go around
6 the officer?

7 A. To me it seemed like the car really didn't
8 really want to hit the cop, but the cop wasn't
9 getting out of his way. He was telling him to
10 stop. Like, basically they were playing
11 chicken, and the cop wasn't letting up. The
12 car just kept on going.

13 Q. You saw that the car was going left before the
14 officer was struck to try to go around him --

15 A. Yeah.

16 Q. -- is that what you're saying?

17 A. Yeah.

18 MS. LITSAS: Objection.

19 Q. When the car was going left --

20 MS. LITSAS: Sorry to interrupt, Del.
21 I would just ask the witness to just pause
22 before answering, just so I can get an
23 opportunity to object beforehand.

24 THE WITNESS: Okay.

1 for a few seconds?

2 MS. LITSAS: Objection.

3 A. Yes.

4 Q. At some point in time you saw the officer get
5 up?

6 MS. LITSAS: Objection.

7 A. Yes.

8 Q. What did you see the officer do next after he
9 got up?

10 MS. LITSAS: Objection.

11 A. Take off down Fayston.

12 Q. In the direction of the white Taurus --

13 MS. LITSAS: Objection.

14 A. Yes.

15 Q. -- white car? Okay.

16 At some point in time you saw another
17 officer; is that correct?

18 A. Yes.

19 Q. After you saw the officer that was struck get
20 up and run down Fayston Street, what did you
21 see the other officer do?

22 MS. LITSAS: Objection.

23 A. Run down Fayston.

24 Q. Would it be fair to say that when you saw both

1 officers going down Fayston Street, that the
2 motor vehicle, this white car, was in between
3 the two officers?

4 MS. LITSAS: Objection.

5 A. Yes.

6 Q. And after you saw both officers running down
7 Fayston Street, what did you hear next, see
8 next?

9 MS. LITSAS: Objection.

10 A. I heard gun shots.

11 Q. Could you see the white Taurus when you heard
12 the first gunshot?

13 A. No.

14 Q. Why not?

15 A. Out of sight.

16 Q. Which means that the car was traveling down
17 Fayston Street?

18 A. Yes.

19 MS. LITSAS: Objection to that last
20 question.

21 Q. After the car went out of your sight on Fayston
22 Street, what did you see next?

23 MS. LITSAS: Objection.

24 A. Nothing. Went in the house.

... who was struck by the motor
vehicle, correct?

MR. DeMIRANDA: Objection.

... time that you hear -- are the shots
... antaneous to the time that he is
... the motor vehicle?

MR. DeMIRANDA: Objection.

... like -- it's like basically when
... was fired, they both was out of

... didn't see where they were?

... n't see.

... so you don't know what they were doing at the
... first hear shots fired?

... out of my sight.

... ice officer, P1, already gotten up
... and?

... time you first hear shots fired?

... onds elapsed before -- between the
... e officer is struck by the motor
... the time that you first hear shots

EXHIBIT J

VOL. I
PAGES 1-36
EXHIBITS A-B

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Civil Action No. 05-11803-MLW

SHENIA DANCY-STEWART
as Administratrix of the Estate of
EVELINE BARROS-CEPEDA
Plaintiff

vs.

THOMAS TAYLOR, JR., AND THE
CITY OF BOSTON
Defendants

DEPOSITION OF TYRONE CAMPER, taken on
behalf of the plaintiff, pursuant to the
applicable provisions of the Federal Rules of
Civil Procedure, before Irma Widomski, a
Registered Merit Reporter, and Certified
Shorthand Reporter, No. 131593 in and for the
Commonwealth of Massachusetts, at the Law
Offices of Andrew Stockwell-Alpert, 11 Beacon
Street, Suite 1210, Boston, Massachusetts, on
Monday, January 28, 2008, commencing at 2:50
p.m.

WIDOMSKI COURT REPORTING ASSOCIATES
ONE SUNSET DRIVE
WAKEFIELD, MASSACHUSETTS 01880
(781) 246-0710

1 MR. OUELLETTE: Objection.

2 A. At which point?

3 Q. On September 11 when you recovered?

4 A. Yes, I did look.

5 Q. When you looked in the back of the car, you saw
6 a bullet hole, right, you saw a hole consistent
7 with a shot fired going through the back of the
8 car, correct?

9 A. Yes.

10 MR. OUELLETTE: Objection.

11 Q. And you also saw a hole consistent with a bullet
12 hole coming through the seat in the interior of
13 the rear seat of the car?

14 A. Yes.

15 MR. OUELLETTE: Objection.

16 Q. Did you yourself pick up the cartridges at the
17 scene or were they handed to you along with the
18 guns?

19 A. I picked them up.

20 Q. When you picked them up, okay, did you do
21 anything with respect to making note of what
22 location you picked them up from?

23 A. Yes.

24 Q. And with respect to that kind of information

EXHIBIT K

VOLUME I

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EXHIBITS 1 TO 2

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

C.A. NO. 05-11803MLW

SHENIA DANCY-STEWART, as)
Administratrix of the)
Estate of EVELINE)
BARROS-CEPEDA,)
)
Plaintiff,)
)
vs.)
)
THOMAS TAYLOR, JR., and)
the CITY OF BOSTON,)
)
Defendants.)

COPY

DEPOSITION OF JOHN C. MURPHY, a witness
called on behalf of the Defendants, pursuant to the
Massachusetts Rules of Civil Procedure before
Lisa Abdo, Certified Shorthand Reporter and Notary
Public in and for the Commonwealth of
Massachusetts, at the offices of City of Boston Law
Department, City Hall, Room 615, Boston,
Massachusetts, on Wednesday, March 26, 2008,
commencing at 10:41 a.m.

1 something like that. After that, they start
2 training you how to be a ballisticians.

3 Q. So after three months beginning in -- the beginning
4 of 1977 you received training in ballistics?

5 A. Yes, I did.

6 Q. And what did that involve, Sergeant?

7 A. Ballistics is the type of field where it's
8 hands-on training. There is no school you
9 can go to, per se, to learn how to be a
10 ballisticians. You have to learn it from
11 other ballisticians. I was assigned to the
12 unit under five other ballisticians who were
13 part of my training. For approximately a
14 year and a half, they trained me how to be a
15 ballisticians. They took me to crime scenes.
16 They showed me what to do. They taught me
17 how to use a microscope. They taught me how
18 to fire handguns safely in a water recovery
19 tank.

20 Q. And who were your supervisors or the ballisticians
21 who you trained under at that time?

22 A. One's name was Jim McGinnis, one was George
23 Windisch, one was --

24 Q. Can you spell the Windisch?

AFTERNOON SESSION

JOHN C. MURPHY, RESUMED

DIRECT EXAMINATION (CONTINUED)

BY MS. LITSAS:

Q. Prior to coming to today's deposition, Sergeant,
did you have an opportunity to -- strike that.

Did you prepare for today's deposition?

A. What do you mean by prepare?

Q. Did you do anything to prepare for today's
deposition, meaning to prepare for your testimony
today?

A. I looked over a couple of diagrams. That's
about it.

Q. Okay. And you pointed to a couple of documents.
Can you show me what those documents are?

A. Sure.

Q. This is the shooting scene newspaper diagram from
the Globe; is that correct?

A. That's correct.

Q. And this is also the trajectory. These were
exhibits attached to your expert report?

A. Yes.

Q. Okay. Did you look at any other documents other
than those two documents?

1 Officer Taylor is here using their sketch.
2 The Taurus starts into his turn. He's at an
3 angle. Correct? You look at these diagrams,
4 now, the car is coming up Dunkeld. It starts
5 to make its turn. Okay. Just like their --
6 diagram. Officer Taylor's first shot is
7 here. The vehicle is continuing to make its
8 turn. The second shot is here.

9 Q. Now, for the record, you're going to have to
10 identify what you're --

11 A. I can't positively say which order they were
12 fired. It's my opinion that "1" was the
13 first shot.

14 Q. The "1" that's depicted in --

15 A. As "1."

16 Q. -- Exhibit A?

17 A. Exhibit A.

18 Q. That's identified as "1," in your opinion, is --

19 A. The first shot fired. My opinion what's
20 depicted as "3" is the second shot was fired
21 because the vehicle was making its turn onto
22 Fayston Street when the officer is over here.
23 And the vehicle starts to almost complete its
24 turn, and you have an angle of 75 degrees.

1 The vehicle has now made its turn. The
2 vehicle at this point with the officer here,
3 if it's going straight ahead on Fayston
4 Street, this fourth shot is impossible. It
5 would have to be at an angle. It's not.
6 It's at a 90 degree. In my opinion, the
7 vehicle had gone past the officer and was
8 starting to make its turn. That's when the
9 fourth shot was fired.

10 Q. When you say that was impossible, it would have to
11 be at an angle, what do you mean by that?

12 A. If this vehicle, if the officer is here where
13 they depict him to be --

14 Q. And what you're referring to is Exhibit B and
15 you're referring to the diagram that's labeled
16 "Shooting Scene" in Exhibit B and you're referring
17 to Taylor's location depicted on Fayston Street; is
18 that correct?

19 A. That would be correct. So like I said, if
20 the vehicle is coming up and it's making its
21 turn and the officer fires, it makes perfect
22 sense. The vehicle starts to complete its
23 turn. Fires a second shot. The vehicle
24 makes -- fires his third. Now, these are all

1 at angles. He's at an angle. The car is
2 continuing on straight ahead and he fires, it
3 has to be at an angle. If the car is
4 starting to make its turn, it's a straight on
5 shot.

6 Q. Now, when you say when the car is starting to make
7 its turn, what do you mean by that?

8 A. The vehicle made a turn onto the next street.

9 Q. I see. So you're --

10 A. Either that or he moved the vehicle somehow.

11 Or the officer ran into the middle of the
12 street or to the other side of the street
13 while the vehicle was traversing down the
14 road. From what I read, Officer Taylor
15 stated he never left that position when he
16 was firing.

17 Q. So are you stating to a reasonable degree of
18 certainty that shots depicted as "1," "3" and "2"
19 in Exhibit B were shots as the vehicle was turning
20 from Dunkeld Street onto Fayston Street?

21 A. That's my opinion.

22 Q. And you're also stating to a reasonable degree of
23 certainty that exhibit -- strike that -- that
24 what's been depicted as shot No. 4 on Exhibit B was

1 made after the vehicle had made a turn?

-2 A. Correct.

3 Q. Do you know how quickly it took the vehicle to make
4 the turn from Dunkeld Street to Fayston Street?

5 A. I did not.

6 Q. Do you know -- strike that.

7 Have you made any effort to determine the
8 amount of time it took the vehicle to make the turn
9 from Dunkeld Street to Fayston Street?

10 A. I would have no way of knowing.

11 Q. And why is that?

12 A. I wasn't there.

13 Q. You would agree with me that the amount of time it
14 took the vehicle to make the turn is an important
15 factor, correct?

16 A. An important factor as to what?

17 Q. In understanding what occurred that evening.

18 A. I can't say. I wasn't there. I didn't see
19 the vehicle. I don't know how fast it was
20 going.

21 Q. And the basis for your determination as to where
22 Officer Taylor was located on Fayston Street is
23 based on what?

24 A. On "B."

Q Where the location of the cartridge
cases were found with respect to Officer Taylor, -
A

A In your report, Exhibit 1, you state, "In
a white Ford Taurus was hit by four

Q What is the basis for your conclusion
that it was hit by four projectiles?

A The diagram and the pictures that I

Exhibit A, Exhibit B, and the
were reviewed?

A Exhibit A and the photographs.

Q As to the determination that, "There was
one projectile, Officer Taylor having fired

Q What was the basis for that conclusion?

A If he fired five shots, we can
account for four hits on the car. One

A If all shots were fired, Eveline
was sitting in the middle rear seat
and was fatally wounded by shot

1 No. 4 as indicated in Exhibit A."

2 What-was the basis for that conclusion?

3 A. Because its number here.

4 Q. Because Exhibit B identifies --

5 A. The fatal shot as No. 4.

6 Q. -- the shot as No. 4?

7 Is there anything else that was the basis
8 of that conclusion?

9 A. No.

10 Q. On page 4, Conclusion No. 2 you state, "In my
11 opinion, shot No. 1 hit the car at a 55-degree
12 angle as depicted in Exhibit A and is consistent
13 with Exhibit B which shows the Taurus in the
14 process of turning from Dunkeld Street onto Fayston
15 Street."

16 The basis for that conclusion is what?

17 A. A and B.

18 Q. Exhibit A and Exhibit B?

19 A. Correct.

20 Q. In Conclusion No. 3 you state, "In my opinion,
21 shots No. 2 and No. 3 as depicted in Exhibit A
22 which hit the Taurus at a 75-degree and 80-degree
23 angle respectively are not consistent with
24 Exhibit B as the Taurus would have been further

1 A. At least.

2 Q. And that's, again, based on your review of
3 Exhibit A and Exhibit B, correct?

4 A. Correct.

5 Q. In Conclusion No. 8 you state, Officer Taylor's
6 statement 'As I lowered my arm I could see Mike' is
7 another basis, in my opinion, that at least at the
8 time of the fourth shot, Officer Taylor could have
9 seen Officer Paillant"?

10 A. Uh-huh.

11 Q. What is the basis for that conclusion?

12 A. If he lowered his arm, as soon as he lowered
13 his arm, he had just fired that fourth shot.
14 If he looked over, he could have seen him.

15 Q. And what is the basis for that conclusion?

16 A. The fact that the fourth shot was fired when
17 the vehicle was beyond Officer Paillant.

18 Q. Again, could you repeat that?

19 A. If you keep Officer Paillant in that position
20 and do not change him, this vehicle had to be
21 beyond Officer Paillant in order for that
22 direct shot to be fired. If the vehicle is
23 here when the last shot is fired, Officer
24 Paillant has to be visible to Officer Taylor.

1 Whether he saw him or not, I cannot say.

2 Q. You do not know what Officer Taylor saw, correct?

3 A. I do not.

4 Q. And it's possible that he could not have seen him,
5 correct?

6 A. Possible.

7 Q. Do you know what time of day the incident occurred?

8 A. It was at night, I believe. Early morning
9 hours.

10 Q. And do you know approximately what time?

11 A. I believe it was 1:00 a.m., approximately.

12 Q. Do you know what the lighting conditions were?

13 A. I don't. I've never been there.

14 Q. And you don't know what the lighting conditions
15 were at the time of the incident?

16 A. I do not.

17 Q. And the basis for your conclusion that Officer
18 Taylor could have seen Officer Paillant is based on
19 what you understand from Exhibit B, correct?

20 A. Yes.

21 Q. Is there anything else?

22 A. No -- oh, the angles.

23 Q. Depicted in Exhibit A?

24 A. "A," yes.

EXHIBIT L

VOL. I.
PAGES 1-105
EXHIBITS -A-C

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Civil Action No. 05-11803-MLW

SHENIA DANCY-STEWART
as Administratrix of the Estate of
EVELINE BARROS-CEPEDA
Plaintiff
vs.

THOMAS TAYLOR, JR. AND THE
CITY OF BOSTON
Defendants

DEPOSITION OF ARTHUR J. STRATFORD,
taken on behalf of the plaintiff, pursuant to
the applicable provisions of the Federal Rules
of Civil Procedure, before Irma Widomski, a
Registered Merit Reporter, and Certified
Shorthand Reporter, No. 131593 in and for the
Commonwealth of Massachusetts, at the Law
Offices of Andrew Stockwell-Alpert, 11 Beacon
Street, Suite 1210, Boston, Massachusetts, on
Monday, January 28, 2008, commencing at 10:00
a.m.

WIDOMSKI COURT REPORTING ASSOCIATES
ONE SUNSET DRIVE
WAKEFIELD, MASSACHUSETTS 01880
(781) 246-0710

1 regulation governs the use of deadly force in
2 the Boston Police Department?

3 A. Rule 200.

4 Q. Does 303 mean anything to you?

5 A. 303, excuse me.

6 Q. What is Rule 200?

7 A. That's -- that was -- I don't know the name of
8 it off the top of my head.

9 Q. Now, when did you first become involved with
10 IAD, internal affairs, with the Boston Police
11 Department?

12 A. Six years ago.

13 Q. That would have been what year?

14 A. Approximately 2002, January 2002, I believe.

15 Q. How did it come about that you became involved
16 with IAD?

17 MS. LITSAS: Objection.

18 A. There was a posted opening for a lieutenant
19 detective in the internal affairs and I
20 submitted a resume and went to an interview and
21 was selected for that position.

22 Q. Now, who interviewed you?

23 A. Marie Donahue, Deputy Marie Donahue and
24 Superintendent Thomas Dowd.

1 is your full and complete report or whether
2 anything is missing or anything.

3 A. That's the report I turned in to Marie Donahue.

4 Q. That report represents your full and complete
5 and final report with regard to the
6 investigation of the weapons discharged by
7 Thomas Taylor?

8 A. Yes.

9 Q. Correct? Based on the investigation you
10 conducted which is summarized in that report,
11 you concluded that the weapons discharge was in
12 compliance with the provisions of Rule 303?

13 MS. LITSAS: Objection.

14 A. Yes.

15 Q. And you summarized the materials that you relied
16 on in reaching this conclusion, right, in that
17 report?

18 A. Yes.

19 Q. And those materials -- you may look at the
20 report to refresh your memory. I would like you
21 to tell me what materials you relied on, and I
22 want you to give a full and complete answer. So
23 if it refreshes your memory to look at that,
24 you're more than welcome to.

1 every one of those possible adverse outcomes
2 could have occurred in this situation where
3 there were people on the street, buildings close
4 together, and moving vehicles near each other,
5 correct?

6 A. Correct.

7 Q. In fact, when the facts as you know them or as
8 you had them presented to you, there was a
9 possibility that Thomas Taylor might have shot
10 into the police cruiser that was following the
11 white vehicle, correct?

12 MS. LITSAS: Objection.

13 A. I can't answer that question.

14 Q. You can't?

15 A. No.

16 Q. There's a possibility Thomas Taylor might have
17 killed an innocent bystander, correct?

18 MS. LITSAS: Objection.

19 A. There's a possibility -- probability, yes.

20 Q. Probability that bullet might have ricocheted
21 off the side of a building, right?

22 A. Off a building?

23 Q. Yes.

24 A. Off the car, you mean?

EXHIBIT M

COPY

Volume: I

Pages: 1-112

Exhibits: 1-11

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

C. A. NO. 05-11803

SHENIA DANCY-STEWART as *

Administratrix of the Estate of *

EVELINE BARROS-CEPEDA, *

Plaintiff, *

v. *

THOMAS TAYLOR, JR., and the *

CITY OF BOSTON, *

Defendants. *

DEPOSITION of JENNIFER K. LIPMAN, M.D., a
witness called on behalf of the Defendants, taken
pursuant to the Federal Rules of Civil Procedure,
before Marie T. Williams, Professional Court Reporter
and Notary Public, in and for the Commonwealth of
Massachusetts, at the offices of the City of Boston
Law Department, City Hall, Boston, Massachusetts, on
Tuesday, April 15, 2008, commencing at 12:27 p.m.

1 chronology --

2 A. It doesn't make sense to talk about it. I
3 worked in some labs for a few years deciding
4 whether I wanted to go to medical school or
5 graduate school. And I decided to go to
6 medical school.

7 I went to medical school at Temple
8 University, and I graduated from Temple
9 University in 1991. And I did a residency in
10 anatomic and clinical pathology at the
11 Deaconess Hospital after that, with a
12 fellowship as a fifth year in gastrointestinal
13 and surgical pathology. And then I did another
14 fellowship at the medical examiner's office in
15 Boston in forensic pathology.

16 Q. Does that comprise your entire educational --
17 excluding obviously your secondary education?

18 A. Yes.

19 Q. Is there any other education or training that
20 you received that you have not mentioned?

21 A. Various courses and seminars and lectures and
22 CME things that you have to do when you're a
23 physician in Massachusetts.

24 Q. And you are a former medical examiner for the

1 Commonwealth of Massachusetts?

2 A. Yes.

3 Q. Where else have you been employed, other than
4 for the Commonwealth of Massachusetts as a
5 forensic pathologist?

6 A. Nowhere, except for my consulting business that
7 I do now. I don't know if that classifies as
8 being employed as a forensic pathologist. I do
9 consulting work in forensic pathology.

10 Q. How long have you been doing consulting work in
11 forensic pathology?

12 A. Since September of 2003.

13 Q. And what prompted you to pursue a private
14 consulting business in forensic pathology?

15 A. Because I left my job with the State, and I
16 wanted to keep my hand in forensics. And that
17 was a good way to do it.

18 Q. Are you board certified in forensic pathology?

19 A. Yeah.

20 Q. Do you have any other board certifications?

21 A. Before you can be board certified in forensic
22 pathology, you have to be board certified in
23 anatomic pathology. And I'm also -- it was a
24 joint board between anatomic and clinical

1 indicate that it's anything that's having any
2 effect on the person at the time because it
3 could be there from beyond the time that it's
4 present in the blood.

5 Q. What information contained in this autopsy
6 report, which has been marked as Exhibit 11,
7 what information in this report assisted you in
8 making your determination for this case?

9 A. The autopsy report is labeled 5.

10 Q. I'm sorry. The autopsy marked as Exhibit 5.

11 A. I just want to make sure I'm looking at the
12 right thing. I'm sorry. What was the
13 question?

14 Q. What information in this autopsy report, which
15 is marked as Exhibit 5, played a role in your
16 determination and your opinion rendered in this
17 case?

18 A. First of all, the description of the wounds and
19 the path of the bullet through her body and the
20 changes in the organs that it went through and
21 the fact that she was healthy prior to that as
22 far as we can tell from her organs. She
23 doesn't have any major problems with any of her
24 organs. She appears to have been generally

1 healthy. And the lack of intoxicating
2 substances in her blood and the lack of injury,
3 other than this gunshot wound, that could have
4 rendered her unconscious prior to having
5 received it.

6 Q. In your opinion, where were the gunshot wounds?

7 A. Well, the entrance wound is on the left upper
8 back. I mean, do you want me to say
9 specifically? I could tell you --

10 Q. Yes, please.

11 A. The entrance wound is the left upper back, 15
12 inches below the top of the head and to the
13 left of the posterior midline. And then he
14 gives a description of the wound, with the
15 abrasion collar being heaviest at the lateral
16 aspect, the inferior and lateral aspect, which
17 would indicate that the bullet was traveling
18 from the left to the right, from the back to
19 the front.

20 Q. Why is that significant, if at all?

21 A. You always mention it when you're describing a
22 bullet wound because it gives an indication of
23 the path. And the fact that this went through
24 a rib -- sometimes when bones hit -- I mean,

1 alive.

2 Q. So I guess you're making a couple of opinions.
3 One, she was alive when she received the first
4 gunshot wound?

5 A. Right.

6 Q. Do you know if she received more than one
7 gunshot wound?

8 A. There's only one gunshot wound listed. I hope
9 you didn't -- he called them wounds A and
10 wounds B, but it's one single gunshot wound
11 with an entrance labeled A and an exit labeled
12 B.

13 Q. So your opinion is based on this report, that
14 there was one gunshot wound, and that was both
15 labeled A and B, and that that gunshot wound
16 was the fatal -- was the cause of death --

17 MR. STOCKWELL-ALPERT: Objection.

18 Q. -- correct?

19 A. Yes.

20 Q. At the time that the gunshot wound was
21 experienced by the decedent, she was alive at
22 the time that she received the gunshot wound?

23 A. Correct.

24 Q. And that's what the significance of the

1 A. Well, it would conflict with other evidence
2 that she was.

3 Q. And the other evidence that she was
4 unconscious -- that she was conscious consists
5 of the report that's been marked as Exhibit 3
6 in this case, that documents Maria DaRosa's
7 interview and the statement that the decedent
8 said, "Oh, shit"; is that correct?

9 MR. STOCKWELL-ALPERT: Objection.

10 A. That is the witness statement indicating that
11 she was conscious, yes.

12 Q. Other than Exhibit 3 and the autopsy report, is
13 there any other evidence that indicates to you
14 that the decedent was conscious at the time?

15 A. No, because the only other evidence is after
16 they gained access to the car by the people --
17 the officers that made statements about when
18 they found her slumped over in the car.

19 Q. And you haven't received those reports,
20 correct?

21 A. I don't have the reports. I just have what
22 they said in here.

23 Q. In the course of your review of the -- for this
24 case, you didn't receive -- you didn't review

1 any reports from the emergency medical
2 personnel that responded by ambulance to the
3 scene?

4 A. No. I just have their report from the
5 emergency room saying that -- I mean, the
6 emergency room personnel say that she was --
7 somewhere in here it said that she was
8 unconscious at the scene and she was
9 nonresponsive at the scene.

10 Q. I'm going to show you what's Exhibit 4. Is
11 that the document that you're referring to?

12 A. Yes. The Boston Medical Center records, yes.

13 Q. Could you take me through those records?

14 A. Okay. Well, first you have the front sheet.
15 It tells you just a quick sort of summary.
16 Arrest status post gunshot wound. They don't
17 know the age of the female. She was arrested
18 at the scene -- not meaning arrested, arrested
19 by the police; meaning arrested, cardiac arrest
20 at the scene -- after a gunshot wound to the
21 chest times two, which is not unusual for --
22 they didn't know one was an exit and one was an
23 entrance. No signs of life at the scene.
24 Intubated -- I think it says on scene and

1 brought in. If you turn the page --

2 Q. Let me just interrupt you. The document that
3 you just read was from Exhibit 4?

4 A. Correct.

5 Q. And that reflects the notes of the emergency
6 medical personnel that responded to the scene?

7 A. No. This is the emergency department record,
8 and they get report from -- when they bring
9 someone in in the ambulance, they talk to the
10 physicians or the people in the emergency room.
11 And then they sort of -- they wouldn't know
12 that she arrested at the scene unless they
13 spoke to the people who were at the scene. So
14 the arrested at the scene and intubated at the
15 scene and brought in, that's information that
16 they received from the --

17 Q. Emergency medical personnel?

18 A. -- the EMS people. I think it's EMS, whatever
19 company it was.

20 Q. And the emergency medical personnel based on
21 your review of that document indicated that at
22 the time that they arrived on scene, she was
23 unconscious and she had arrested --

24 A. Correct.

1 Q. Your first sentence -- following No. 7 in the
2 report, you state, "Based upon my professional
3 training and experience, it is my opinion to a
4 reasonable degree of medical certainty that
5 Eveline Barros-Cepeda died as a result of the
6 gunshot wound of the chest, and she experienced
7 conscious pain and suffering during the time
8 between when she was shot and when she
9 expired."

10 A. Mm-hmm.

11 Q. That's a statement that you made, correct?

12 A. Mm-hmm.

13 (Reporter interruption.)

14 A. Yes.

15 Q. Do you know the time between when she was shot
16 and when she expired?

17 A. No.

18 Q. And the gunshot wound to the chest, Doctor,
19 that involved a gunshot wound to the heart,
20 correct, or part of the heart?

21 A. It didn't actually hit the heart. It went
22 through the vessels leading off the heart.

23 Q. And it also went through the --

24 A. Pericardium.

1 Q. -- the ventricles?

2 A. Where does it say it went through the
3 ventricles?

4 Q. I'm asking you --

5 A. Oh, no, did not.

6 Q. -- did the gunshot involve traveling through
7 any of the ventricles?

8 A. No.

9 Q. Did it involve the aorta?

10 A. Yes.

11 Q. Doctor, you go on to state, "I base this
12 opinion upon the following facts: Number one,
13 the path of the bullet was through her left
14 lung, the aortic arc, and the pulmonary artery
15 resulting in extensive blood loss but not
16 direct injury to the heart muscle which could
17 have caused a more sudden death."

18 A. Mm-hmm.

19 Q. That's a statement you made, correct?

20 A. Mm-hmm.

21 (Reporter interruption.)

22 A. Yes.

23 Q. What is the basis of your opinion that the path
24 of the bullet did not involve direct injury to

1 unconscious at the time -- or was not
2 immediately unconscious at the time she
3 received the gunshot wound?

4 MR. STOCKWELL-ALPERT: - Objection.

5 A. Yes. This gunshot wound would not cause
6 immediate unconsciousness.

7 Q. But you would agree with me that it is possible
8 that it could be immediate?

9 MR. STOCKWELL-ALPERT: Objection.

10 A. For this wound?

11 Q. Yes.

12 A. I don't know how from this wound that it would
13 be immediate.

14 Q. I guess what I'm trying to understand is what
15 is the time frame in which you believe that
16 Ms. Cepeda was unconscious for -- or excuse me
17 -- conscious for?

18 A. Very short.

19 Q. What does that mean?

20 A. Like maybe less than a minute. Maybe a minute.
21 I mean, I can't tell you for sure. I'm saying
22 the inside of it would be, you know, less than
23 a minute on the inside, but it wouldn't be
24 impossible, except that I know that when people

1 got to her she apparently was unconscious by
2 the time the police got to her. And I don't
3 know how long a period of time that was. But
4 it wouldn't surprise me if by the time someone
5 got to the car, she was unconscious, but all
6 I'm saying here is she was not immediately
7 unconscious.

8 Q. And the basis for that opinion is physiology
9 and the autopsy report?

10 A. Right. The fact that what killed her was the
11 blood loss from this gunshot wound and that
12 doesn't cause immediate unconsciousness.

13 Q. So understanding the basics of anatomy and
14 physiology allow you to make the determination
15 that a gunshot wound suffered by the decedent
16 in this case would not render her immediately
17 unconscious?

18 MR. STOCKWELL-ALPERT: Objection.

19 Q. Correct?

20 MR. STOCKWELL-ALPERT: Asked and
21 answered several times.

22 A. Yes. And also experience from other cases
23 where people have suffered large vessel
24 injuries, and they are not unconscious